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Population Policy, Nationalism and Nation-Building in Québec: Observations and Analyses of the *Québec Parental Insurance Plan*

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Abstract of Thesis

Title: Population Policy, Nationalism and Nation-Building in Québec: Observations and Analyses of the *Québec Parental Insurance Plan*

This thesis explores the hitherto under-developed relationship between population policy, nationalism and nation-building. It considers how and why the concepts of demography, population and population policy come into play in a sub-state national jurisdiction where the administration of social policy interacts with nation-building objectives as well as other social and political agendas such as support for the family, reduction of poverty, equal opportunities and employment protection. The thesis is designed to provide readers with general observations and preliminary analyses regarding the social and political role of population policy and public discussions thereof in the context of sub-state nationalism in Québec, federal-provincial relations in Canada, and the judicial process that led to the eventual legislation and implementation of Bill 140 *An Act Respecting Parental Insurance* in Québec.

Bill 140, which has come to be known as the Québec Parental Insurance Plan, is a parental leave policy that was legislated in the National Assembly of Québec by two different sub-state national political parties between the years of 2000 and 2006. It had its origins in the Parti Québécois' 1996 white paper policies. These family policies, which included affordable day care and the reduction of poverty, especially among women and children, were social democratic in their objectives and were informed by various interest groups. As Bill 140 evolved it developed the explicit objectives of encouraging potential and existing Québécois parents to have children and of providing Quebecers with a provincial parental leave scheme separate from that already administered by the Canadian federal government under the *Employment Insurance Act*. These objectives, it is argued, differed from those initially set in the province's 1996 white paper. Bill 140's attempted implementation in 2001 by the sovereigntist Parti Québécois failed because of unresolved jurisdictional battles with the Canadian federal government but was successfully legislated in 2005 by the federalist Parti Libérale du Québec, after an administrative agreement was struck between the provincial and federal governments.

It is the contention of this thesis that the relationship between population policies, nationalism and nation-building objectives is made much more explicit in a sub-state nation where the legislative and administrative boundaries of a political jurisdiction are often contested and jurisdictional battles can serve to highlight issues around national identity and cultural distinctiveness. In Québec, national identity and cultural distinctiveness are most often claimed in the form of linguistic 'difference.' This 'difference,' furthermore, is often granted public credence in the form of provincially administered social policies that are designed for the purpose of ensuring Québec's 'national survival.' In the context of these broad nation-building objectives, many of which have been the subject of the literature on nations and nationalisms, this thesis explores the extent to which the concepts of population and demography have tended to be overlooked in scholars' discussions of the reproduction of nationhood. The thesis suggests, therefore, that not only should the reproduction of nations and nationalisms concern us but so too should the policies that concern the reproduction of the nation's members within a particular national boundary.

The thesis concludes by justifying the need for further case studies in this exploratory area of sociology, politics and demography, an area that is currently ripe for further academic investigation.

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Chapter 1: 'Quand une population est-elle une nation et quand une nation est-elle un état?'[1]
Examining the Relationship between Population, State and Nation

Recent sociological scholarship that has been concerned with the study of nations and nationalism has focused on the relationships between the state, nationalism and the nation. It has suggested that the development of the modern state has encouraged the growth of nations, nationalism, and national identity in various modern societies. Although the study of nations and nationalism has often concentrated on the extreme ideological manoeuvring of social groups within a polity, it has more recently focused on the reproduction of 'banal' nationalism, whereby national identity and nation-building projects are conceived of according to 'nationality' in a way that has hitherto been taken for granted (Billig, 1995). What the extensive literature on nations and nationalisms suggests is that nationalism is a concept that is difficult to define and represents varied social, political and cultural phenomena (Calhoun, 1993, 1997; Mann, 1995; Smith, 1986, 1998). Nationalism is a concept, furthermore, that is always subject to social, historical and political transformation.

Although the many facets of both explicit and implicit nationalist projects have been studied at some length by sociologists as well as scholars in the disciplines of politics, philosophy and social policy, few have considered the extent to which the concepts of demography and population policy play significant roles in the everyday expression of modern nation-building projects. In order to explain the relevance of this relationship to the existing literature on nations and nationalisms, this thesis has the purpose of observing and analyzing the role of demography and population policy in the context of a specific sub-state nation's ongoing nation-building projects. It does so in the form of a case study that features the legislation of a parental leave policy in the sub-state nation of Québec, a primarily French-speaking province within Canada. The observations and analyses hereunder were generated with a view to expanding the literature on nations and nationalisms to include relevant studies of the effects of demographic concepts such as fertility, population growth and population decline on sub-state national representatives' public conceptualizations of national identity and the relationship of these public conceptualizations to 'nation-building' public policies.

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[1] Title taken from Philip Kreager's article, 'Quand une population est-elle une nation? Quand une nation est-elle un état? La démographie et l'émergence d'un dilemme moderne, 1770-1870.' *Population*. 6 (1992): 1639-1655.

Beyond broad observations of the role that the concepts of demography and population policy play in public discussions of national identity and nation-building projects, such as family policy legislation, the thesis also suggests ways in which public record accounts of population policies may be considered forms of 'banal' nationalism. It investigates whether or not the relationship between the concepts of population and nation is not only made visible through Québec's explicit population policy legislation in the context of Canadian federal politics but is also reproduced 'banally' within the sub-state nation through public discussions of population policies' interaction with other provincial policy agendas. This study, as suggested above, will be carried out by situating the under-investigated relationship between population and nationalism within an established literature on nations and nationalisms.

In the study of nations and nationalisms, researchers can be categorized according to three main approaches to the subject. Ethnicists, or primordialists, such as Smith (1986), Armstrong (1982) and Hutchinson (1994), argue that the modern characteristics of nations and nationalisms do not represent a historical break in the social organization of individuals according to ethnically homogenous communities. Rather, primordialists claim that 'national' categories exist on the same continuum as ancient or 'primordial' ethnic origins. Smith in particular uses the concept of the *ethnie* to suggest the extent to which modern 'nations' represent very old patterns of ethnicity that pre-date the rise of the modern state or any other of its corollaries (1986: 13). Although they do challenge the assumption that nations are in some way 'natural' or 'given,' primordialists' analyses of modern nations and nationalisms assume that some of the characteristics of 'modern' national categories, such as ethnic and linguistic difference, have roots in ancient societies and the ways in which those societies were organized (Calhoun, 1993: 214).

Modernists, on the other hand, contend that nations and nationalisms represent modern social and political changes in the ways that societies are organized and that nations and nationalisms, therefore, were only 'invented' or made conceivable in modernity (Anderson, 1991; Breuilly, 1993; Gellner, 1983; Greenfeld, 1993; Hobsbawm, 1990; Mann, 1993, 1995). The concepts of nationalism and ethnicity, they claim, are tied to modern categorical identities (Calhoun, 1993). These categorical identities, moreover, are argued to be the products of modern state-building, individual nations' claims to their own population's rights to representation (Calhoun, 1993: 211), and a drive toward state democracy (Mann, 1995: 44). Many modernists also contend that nations were produced as the result of the rise in the

formation of states. 'State-building,' it is claimed, 'produced a basic discontinuity with earlier forms of social organization,' whether that social organization was formerly based on family, kinship or tribal union (Calhoun, 1993: 217).

Mann argues that while pre-modern ethnicity was inherently local, the centralizing forces of the modern state allowed social identities to be standardized across larger social spaces (1995: 46). The rise of literacy became a 'national' project in many industrializing states, focusing on the standardization of languages, education in schools and the rallying of individual members of the state around nation-building projects such as the establishment of national print media (Anderson, 1991; Calhoun, 1993: 224; Mann, 1995). The emergence of industrial capitalism, furthermore, expanded states' interaction with other states and allowed state representatives to unite their own citizens behind 'national' armies and military pursuits (Mann, 1995: 47). Modernity, thus, represented 'the consolidation of centralized administrative power, the development of capacities to mobilize otherwise civilian populations (and material resources such as industry) for interstate warfare, and the partitioning of the world into comparable states' (Calhoun, 1993: 217).

This latter statement is important because it reveals the extent to which modernists have helped students of nationalism studies understand the ways in which states, nations and nationalisms developed in relation to each other. As Mann argues, nationalism evolved as states developed the ability to mobilize representative institutions over time (1995: 62). These representative institutions further solidified the concept of the nation by developing the idea that the individual citizens of the state were equal to each other because of national similarities such as language and territory (Calhoun, 1993: 230-2). The rise of states, which encouraged the formation of democratic institutions such as representative governments, also produced a new consciousness of national identity (Calhoun, 1997: 10). This, it is argued, created homogeneity within states and heterogeneity among them (Calhoun: 1993: 217). The reproduction of homogeneity within states and heterogeneity among them was accomplished as a result of the formation of separate 'national' consciousnesses.

Because of the growth and evolution of representative state institutions, the members of the modern state are not only imagined to share a 'national' identity with those who claim association in the same state, but so too are they imagined to be different in 'nationality' from the people who claim association to 'other' states within 'other' state boundaries. As Anderson suggests: 'The nation is imagined as *limited* because even the largest of them,

encompassing perhaps a billion living human beings, has finite, if elastic, boundaries, beyond which lie other nations. No nation imagines itself coterminous with mankind' (1991: 7). Furthermore, as Calhoun claims, ' "domestic" nationalisms depend on and are shaped by being located in a world of nations and nation-states' (1997: 8). Much of this modern categorization of groups according to nation and 'nationality,' modernists argue, can be attributed to the ways in which the modern state developed and became organized.

Although much attention has been paid to the ways in which state formation has produced a consciousness of national identity (Calhoun, 1997: 10), many modernists have also considered the ways in which nationalism has evolved among populations who believe themselves to be nations but are not granted the autonomous powers of states. The rise of the modern state, which is believed to have influenced the growth of nationalism, has also engendered the idea that national boundaries ought to coincide with state boundaries (Calhoun, 1997: 6). Calhoun argues that 'Nationalism has become the preeminent discursive form for modern claims to political autonomy and self-determination' (1993: 213). Thus, although many modernists believe that nations and nationalisms developed as a consequence of modern state-building objectives, many scholars of nationalism studies have focused on sub-state national movements that have developed in response to the growth of state sovereignties and the settlement of states' territorial boundaries in the nineteenth and twentieth centuries (Connor, 1978; Guibernau, 1999, 2006; Ignatieff, 1993; Keating, 1997, 2001; McRoberts, 2001a). These movements are often based on ethnic or linguistic homogeneity and focus on attaining the autonomy or sovereignty of states as their members are persuaded that state power is the greatest expression of national cohesion.

This has led some scholars of nationalism studies to conclude that the development of nations and nationalisms cannot always be attributed to the growth and spread of states and state-building objectives (Calhoun, 1997: 11). The state-centered approach, according to Calhoun, 'makes it hard to understand why national identity can stir the passions it does,' and it 'encourages analysts either to ignore ethnic and other identities that do not coincide with states or to treat them as somehow naturally given' (1993: 219). Reducing the study of nationalist discourses to the evolution of the modern state, moreover, can prompt researchers to overlook important themes in older historiography or historical sociology such as social and cultural transformations (Calhoun, 1993: 219). For these reasons some academic contributors to the study of nations and nationalisms have preferred a social constructivist approach to the subject.

Social constructivists include Billig (1995), Brubaker (1992, 1996, 2002), Özkirimli (2000), and Yuval-Davis (1997). Like modernists they believe that nations and nationalisms are products of modernity. However, social constructivists often interpret nationalism as a particular discursive formation or a language that is embedded in everyday public practices. Such common practices may include watching the news on 'national' television, reading the 'national' newspaper or observing national symbols such as flags in various social and political circumstances such as national sports matches or everyday parliamentary proceedings. Social constructivists wish to 'deconstruct' the everyday practices that tend to make the nation appear as 'natural' or 'given.' They also wish to analyze the ways in which historical narratives underpin national myths in the everyday representations of national identity and nationhood and to be critical of the ways in which the 'nation' has been constructed so as to appear static and immutable (Calhoun, 1993: 221).

While social constructivists understand the importance of studying macro-structural forces such as the social, political and economic determinants of modern nations and nationalisms, they are more interested in the ways in which 'banal' or 'everyday' institutional and discursive practices have been received by the masses. For example, Fox and Miller-Idriss argue that '[t]he nation […] is not simply the product of macro-structural forces; it is simultaneously the practical accomplishment of ordinary people engaging in routine activities' (2008: 537). This approach to the study of nations and nationalisms, moreover, represents attempts to observe and to describe the ways in which the nation and the everyday 'nationalization' of a population becomes so 'normal' that it is routinely taken for granted (Billig, 1995: 38; Fox and Miller-Idriss, 2008: 537).

Some social constructivists tend to promote an explicitly 'anti-nationalist' agenda. Brubaker and Cooper (2000) in particular are critical of 'scholarly conceptions of "nation" and "national identity"' that 'replicate key features of nationalist ideology' (42 n.50). This, they argue, occurs when scholars blur categories of practice with categories of analysis (Brubaker and Cooper, 2000: 5). That is, most researchers can agree that the category 'nation' exists in practice insofar as it is a means of organizing both institutions and categories of identity. However, since social constructivists believe that researchers have a responsibility to socially deconstruct the category 'nation,' some of them also believe that its replication as a category of analysis in scholarly work falsely assumes that the categories that social constructivists attempt to deconstruct do 'essentially' '"exist" and that people "have" a

"nationality"' (Brubaker and Cooper, 2000: 6). This kind of analysis of nations and nationalisms makes it difficult to study nation-state institutions such as parliaments as well as institutional processes such as social policy legislation and national identity-forming processes such as state sponsorships of 'national' cultural projects, all of which require a basic analytical assumption that nations and nationalisms do exist and that they do appear 'real' to the individuals who claim collective association in them.

It is for this reason that the approach to the analysis of nationalism and national identity that is adopted in this thesis is primarily modernist. The approach to the study of population policy and its relationship to nationalism and nation-building projects in this work is dependent upon the assumption that states are capable of influencing nations' fertility and overall population numbers through policy. In the specific context of this thesis, moreover, both the evolution of the functions of the Canadian state and the role of sub-state political sovereignty in Québec play important roles in analyzing the function of population policies and demography in the primarily French-speaking province. Although much of the analyses that are conducted hereunder examine the ways in which public discourses relating to population numbers are reproduced banally, the thesis does not assume that the national or state boundaries that account for population numbers can or should be 'deconstructed.' Rather, the thesis contends that the fact that population numbers tend to be accounted for in terms of 'nationality,' and that 'national' population growth can be the basis for nation-building projects such as the administration of population policies, has hitherto tended to be taken for granted.

The concepts of population and nation-building projects, moreover, can be traced to an idea that is common to 'modernist' nation-building literature. An idea that is common to 'modernist' nation-building literature that this thesis pursues at greater length is that modernizing states make nations through legislation and policy. The evolution of modern states encouraged the widespread growth of both territorial mobilization and national identity formation. Although approaches to the study of nations and nationalisms do vary, what primordialists, modernists and social constructivists all have in common is a belief that nations and their characteristics are continually in flux. Although nations and nationalisms are continually changing, a few characteristics of nations that tend to survive socio-historical transformations are the concepts of national identity and territorial mobilization. That is, in order for the concept of a nation to survive through different historical periods, that nation must have some form of collective identity that most, if not all of its members, share in

common such as a language, a religion, or a culture (Anderson, 1991: Calhoun, 1993: 211; Mann, 1995: 52-3; Smith, 1986). Second, that nation must exist in a territorial space that is bounded (Anderson, 1991: 6-7; Calhoun, 1997: 13-4). These territorial boundaries are what allow the members of one nation to imagine that the nation in which they claim association exists within a world of many nations (Anderson, 1991: 7; Calhoun, 1997: 8). The national identity of one nation's members, therefore, is not only defined by a set of more or less cohesive characteristics but is also defined in terms of all of the other national identities that it is not.

During the nineteenth century the concept of the 'nation' evolved primarily in the context of modern warfare and states' military objectives. The expansion of state power allowed once disparate regions to organize themselves administratively and to develop demographic profiles and territorial boundaries for both trade and warfare with other emergent nation-states (Mann, 1988, 1995). During the twentieth century the role of the state expanded once again encompassing the provision of welfare policies and social integration (Mann, 1995: 54). This, according to Mann, further solidified the nation, supplying its nations' members with an added sense of homogeneity and social cohesion (1995: 54). Thus, although the roles of both the nation and the state have changed throughout history, scholars of nations and nationalisms have been able to show that the members of different societies have been able to adapt the meanings of both the nation and the state to the historical contexts in which they are continually evolving.

The purpose of the state, it is claimed, is to provide central organization for a territory and the people who claim association within that territory (Calhoun, 1993: 217; Mann, 1995: 47). The purpose of the nation, moreover, is to provide a sense of belonging and collective identity to the people who claim membership in it. The contemporary role of the state in social programming raises issues with regard to national culture and its safeguarding. That is, the powers of social policy legislation have grown to encompass language laws and population policies as well as immigration laws. This has allowed nation-states to be able to influence the ways in which the national community gets 'reproduced.' This, furthermore, has provoked claims within sub-state nations, or, stateless nations, to be able to determine how their own 'nation' gets reproduced, even though the 'national' community may not have full sovereignty over policy-making institutions.

Sub-state national claims are often made in terms of collective rights and have fueled debates on the nature of individual and collective rights in many states with multiple 'national' identities (Calhoun, 1993: 217). Today, many states include more than one group of people within their territorial and jurisdictional boundaries that claim a 'national' identity of their own. Some of the members of these groups that claim national identities that are perceived to be 'different from' the homogenous identity of the 'nation-state' may actually claim citizenship in one state and membership in one (or more) national groups within a state. In some cases these sub-state national identities have developed into sovereignty movements wherein the members of the sub-state nation claim the right to some form of self-governance, political autonomy or 'national' sovereignty of their own.

An example of a sub-state nation that has claimed the right to sovereignty from a federal state is the Province of Québec, a primarily French-speaking jurisdiction that exists within federal Canada, a predominantly English-speaking nation-state. When it comes to the analysis of the role of the state in reproducing nations and nationalisms, Québec is an interesting case study. This is because provinces within the Canadian federal state have some exclusive constitutional powers, which include, very broadly speaking, the legislation of social programs. Therefore, by using Québec as a case study of sub-state nationalism, it is important to note that nationalism and nation-building projects in the sub-state nation can be articulated in the form of the province's state-like powers over social policy legislation. Historically, such provincial social policy legislation has included health care policies, family policies such as affordable day care and, as we will explore in this thesis, population policies.

Québec's national identity, which is shaped by its minority cultural and linguistic status within Canada as well as its sovereignty over social program legislation, provides the researcher with unique opportunities to observe and to analyze the hitherto underdeveloped relationship between nationalism, nation-building projects and the concepts of population, population policy and demography. This thesis, as will be discussed in depth below, concentrates on the interaction of national identity and state sovereignty with demographic concepts such as fertility and population decline in French-speaking Québec. It considers how jurisdictional battles that took place between provincial and federal levels of government over state powers have contributed to Québec's nation-building projects, and have also made public discussions of demographic change, fertility and population size more visible. It does so with the purpose of expanding the literature on nations, states and

nationalisms to include both empirical and theoretical analyses of the role that demographic concepts play in nation-building projects such as social policy legislation.

<u>Population Policy and the Role of the State in Nation-Building Projects</u>

In the literature on nation-building, researchers have identitified the ways in which communities have been transformed from 'local' to 'national' (Deutsch, 1961; Weber, 1976). The process of social and historical change from traditional, small, and locally governed communities to the administration of large, modern nation-states is referred to by Deutsch as 'social mobilization' (1961). The process of widespread changes in demography, industry and social organization that took place in most Western societies primarily during the nineteenth century was marked by a shift in political leadership as well as the range of demands for services that were placed upon governments (Deutsch, 1961: 499-501). That is, governments that were once organized locally and led by village headmen were transformed into political party organizations with 'national' representation and services which were once non-existent or organized within townships or cantons, such as the provision of education, health and military services, became administered nationally through various government programs (Deutsch, 1961; Weber, 1976). Weber argues that it was not until the Franco-Prussian War in 1870 that the French army was finally recognized as France's 'national' army. By means of the war with Prussia, moreover, 'the connection between local and national interests became more evident to large numbers of people' and 'the role played by war in promoting national awareness was reinforced by educational propaganda, by developing trade and commercial ties, and finally by something approaching universal service' (Weber, 1976: 298).

The rise of modern states, according to Deutsch, raised issues with regard to their size (both in terms of territory and population), and the extent to which formerly locally organized communities would unite into culturally and linguistically homogeneous entities (1961: 501). One of the ways in which this homogeneity was achieved, Weber argues, was through education (1976). The move away from parochial education in France to 'nationally' administered educational institutions with 'national' curricula recreated ordinary French citizens' perceptions of themselves as the members of a 'national' community (Weber, 1976: 303). The mobilization of the state to be able to provide services to its citizens such as the construction of roads and proper infrastructure as well as the transporation of all French

citizens to newly constructed educational establishments, contributed to the spread of the French state's national sovereignty over its citizens (Weber, 1976: 303).

A state's sovereignty, according to Mann, 'come[s] from its ability to provide a territorially centralized form of organization' (1988: 1). Its powers are most often exercised infrastructurally through the provision of social and civil services to its citizens (Mann, 1988: 3-9). Through the development of infrastructural power and democratic norms, the citizens of states are accorded both 'private' property rights and, under certain circumstances, collective rights (Mann, 1988: 10). Citizenship, furthermore, is based on a 'universalist' detachment from 'natural' ties to kin, locality, language, race, class and religion (Mann, 1988: 22). The idea of the nation, conversely, is often equated with ethnicity or cultural membership (Hobsbawm, 1990: 16-7), and a Romantic concept of blood and belonging; it became part of normative social and political discourse during the 'Age of Revolution' (Hobsbawm, 1990: 18). The concept of a 'nation-state' is said to have resulted from the ways in which expansive territories entered into capitalist market relations with other territories by being given regulative boundaries by pre-existing states (Mann, 1988: 27). The monolithic status of nation-states in modern Western society has produced the idea that the nation-state system is the one and only legitimate expression of power in modern societies. Thus, where so-called 'national communities' are situated within existing states, it is often believed that the only means by which such communities can achieve autonomy is by seeking state-like status.

The 'nation', according to Anderson, 'is an imagined political community' and 'nation-ness is virtually inseparable from political consciousness' (1991: 6, 135). Because the category 'nation' has been analyzed by many thinkers in the field of nationalism studies such as primordialists (Armstrong, 1982; Hutchinson, 2003; Smith, 1998), modernists (Anderson, 1991; Gellner, 1983; Handler, 1988; Hobsbawm, 1990; Hobsbawm and Ranger, 1992), and social constructivists (Billig, 1995; Brubaker, 1992, 1996; Reicher and Hopkins, 2001; Yuval-Davis, 1997), attention has been brought to the ways in which categories that were made to appear 'natural' such as national identity, citizenship and ethnicity, are in fact 'invented,' or, 'imagined' (Anderson, 1991). One of the ways in which the 'imagination' of a nation gets reproduced publicly, furthermore, is by virtue of the functions of the modern state such as the provision of social and welfare programs and the powers that states can exercise over their citizens such as enforcing mandatory taxes and obligatory military service. The authority of the state ranges from the ability to empower its own citizens with

individual and collective rights to the power to force them to do certain things like paying taxes or attending school.

What the literature on nations and nationalisms suggests is that the modernization of the state helped to create nations through legislative acts and social policy programs that take place in specific 'national' contexts. One of the most common ways in which the powers of the modern state were transformed into implicit or explicit nation-building projects was through the implementation of modern social policy. As stated above, in the nineteenth century, nationalist sentiment was spurred primarily by the nation-building projects of war and imperialism. Similar nationalist sentiments have been reproduced in the twentieth and twenty-first centuries in the context of welfare administration and social programming. Because of the administrative nature of modern nation-states, policy is only ever administered within the borders of a specific territorial jurisdiction. In cases where this jurisdiction is conceived of as either implicitly or explicitly 'national,' political leaders can claim the value of social policies in nationalist terms.

For example, national identity can be reproduced by political and social actors during the legislative processes of a 'national' day care program or a 'national' energy program. These programs are often argued to be for the specific population of people that political actors represent and are seldom legislated for the good of people beyond a specific nation-state's borders. This kind of nationalism, unlike the explicit nationalist projects of war and imperialism, can be reproduced banally. It can be reproduced banally because although political leaders may not use the category 'nation' explicitly to differentiate their status or power from other nations, the category 'nation' is often flagged by political representatives in a way that is assumed to be obvious and is, as a result of modern norms, taken for granted on a daily basis. The everyday administration of social policy, therefore, is a good example of the ways in which the organization and sovereignty of the state interacts with the social cohesion of the nation to produce powerful 'banal' nation-building ventures.

Although the state differs in many of its characteristics from the nation, both nations and states do share at least one thing in common. That is the fact that both nations and states are reproduced socially in the context of a specific 'population' that claims either membership or citizenship within a territory's borders. Even if a nation is stateless or even if a state is sovereign over a group of citizens with relatively little ethnic, religious or cultural commonalities, group identity is always reproduced among one specific population rather

than a global population. Both nations and states are bounded and their representatives seldom claim authority over people who exist outside of their own borders.

Although this may appear to be obvious, relatively few scholars have questioned the ways in which the populations of nation-states are reproduced. While they have analyzed the social and political reproduction of national identity within nation-states and the kinds of nation-building projects that encourage the growth of national identity, few have analyzed the ways in which national leaders are concerned with the reproduction of their own populations. States, both ancient and modern have scarcely questioned 'the naturalness' of *their* people. As nation-states have developed over the past few centuries in relation to one another and have been conceived of based on ideological habits and local norms, few sociologists have attempted to draw connections between nations, states and the reproduction of the populations that inhabit them. Not only are national societies reproduced by means of national ideologies and territorially bounded institutions such as state parliaments and judicial systems, but so too are the individual members of nation-states reproduced biologically. This reproduction, moreover, can be controlled, influenced and encouraged by states that have the power to legislate social policy that can affect individuals' fertility and reproductive behaviour. However, very little research has been done on the conceptual links that exist between nationalism, population, and social policies with either implicit or explicit fertility objectives. This, it will be argued, is because the concepts of population, population policy and demography have either tended to be overlooked or taken for granted in contemporary sociology.

As it was suggested above, the rise of modern nations and nationalisms from the eighteenth century onward produced a consciousness among individuals of belonging to one specific nation. This belonging, furthermore, also produced a consciousness of *not* belonging to another group. As Calhoun notes:

> The discourse of nationalism is inherently international. Claims to nationhood are not just internal claims to social solidarity, common descent, or any other basis for constituting a political community. They are also claims to distinctiveness vis-à-vis other nations, claims to at least some level of autonomy and self-sufficiency, and claims to certain rights within a world-system of states. (1993: 216)

Therefore, that a 'stock' of people prospers and becomes 'great' is dependent upon its prosperousness in relation to other 'stocks' of people. The existence of the 'other,' moreover, is a means of measuring the power and expanse of one state's national

mobilization against another's. For sub-state nations comparisons to the 'other' often represent means of justifying the nation's *own* autonomy and the possibility of its secession from a pre-existing state.

For reasons both political and cultural, states have, in the past, regarded the 'populousness' of their societies as a means to beget the kinds of qualities that make their people 'better' in relation to other societies. As the modern state has evolved and 'stocks' of people who share common traits such as territory, language, religion or ethnicity, have tended to identify themselves most strongly as 'nations,' the number of people who make up the 'nation' remains a predominant characteristic of state power (McIntosh, 1983; Teitelbaum and Winter, 1985). As the nation-state has developed in the modern era, the view that specific populations of people belong to specific nation-states has captured the political imagination of the West and has resulted in a multitude of ideological responses to population change, especially population decline (Camiscioli, 2001; King, 1998, 2002; Klaus, 1993; McIntosh, 1981, 1983, 1986; Silverman, 1992; Teitelbaum and Winter, 1985; Winter, 1988). Historical examples of these ideological responses to population decline include penalties to families who do not bear any children, restrictions on abortion and birth control and the administration of state-run welfare programs that have the purpose of encouraging families to participate in both paid labour and the reproduction of families.

Although contemporary sociology is full of scholarly work that has analyzed the relationship of nations to states, the rise of modern nationalism and the role of the state in citizenship regimes, the association between the nation, the state and the concept of 'population' remains underdeveloped. That is, although it is understood that people belong to certain nations and states, and that these concepts are reproduced socially, sociologists have paid insufficient attention to the ways in which the individuals who claim membership or citizenship in any particular nation or state are *encouraged* to reproduce within those particular jurisdictional contexts. Scholars of nationalism studies have considered what kinds of characteristics are requisite in order to consider a population to be a 'nation' (Calhoun, 1997: 4; Kreager, 1992). However, they have not considered the importance of the concept of population to national mobilization and nation-building projects. That is, they have not considered the extent to which concepts of demography, fertility and the reproduction of a population occupies an important place in the social reproduction of the nation.

This is somewhat surprising given the importance that has been credited by some in the field of nationalism studies to the relationships between demography and the state as well as 'national' demographic projects such as censuses (Anderson, 1991: 164-70; Mann, 1995: 54; Calhoun, 1997: 14). The reproduction of 'populations' within states has been subject to varying demographic changes including fluctuations in fertility and mortality rates with the advent of modern health sciences. The demographic transition of the nineteenth century, which was characterized by a sharp decline in both fertility and mortality rates in Western societies, changed the ways in which modern states conceived of population control. The scientific and demographic changes that incited the demographic transition have themselves been subject to social and political changes such as the transition of rural communities to urban ones (Szreter, 1993; Watkins, 1986), social revolutions in gender equality, the public treatment of women in the paid labour force (Kyriazis and Henripin, 1982; McDonald, 2000; Siim, 2000), technological change and the development of the welfare state (Caldwell, 2004; Caldwell and Schindlmayr, 2003; Myrdal, 1967; Offen, 1991; Schneider and Schneider, 1996; van Krieken, 1997).

Watkins (1990) has echoed some of the main arguments put forth in the nation-building literature quoted from above by arguing that the evolution of the modern state's functions has affected individuals' fertility decisions. While in the past, Watkins argues, conversations among individuals concerning fertility bahaviour 'were likely to have been largely with members of the local community, in the present the relevant community is largely national' (242). Although Watkins offers an analysis of the ways in which the rise of both the modern state's functions and the growth of 'national' identity affected demographic behaviour, she does not analyze the ways in which the rise of the modern state caused demographers to assume that 'populations' and 'population numbers' are necessarily 'national.' One of the objectives of this thesis, thus, is to show that the relationship between the functions of the state, 'imagined communities' and the kinds of social policies that not only influence the social reproduction of the nation through their nation-building objectives, but also the biological reproduction of the individual members who make up the populations of nations, has long been overlooked.

The conceptualization of human 'populations' as multiple is a product of the modern discipline of demography. Demography as a discipline developed in tandem with the modern state. The discipline was developed by the modern European bureaucratic state as a way of measuring the size of states and their colonies and to collect data relevant to the characteristics of a state's population. These data were used to measure potential military

might, economic variables and the consistency of a population's reproduction (MacInnes and Perez Diaz, 2009: 428). More recently, the discipline of demography has been used in the area of social policy to measure variables such as population aging, the gender distribution of a state's paid labour force and linguistic differences. These data are used to inform legislators regarding possible policy initiatives to better meet a specific population's social needs. In this way demography, in conjunction with social policy, has played an important role in modern states' nation-building projects such as the administration of national social programs, and the development of citizenship regimes that account for minority populations as well as the rights that may be granted to them.

As scholars continue to develop a literature that concerns nationalism, nation-building and social policy (McEwen, 2002, 2006; Béland and Lecours, 2005, 2008; Saint-Martin, 2004), it is an equally opportune time to explore the link between nationalism studies and demographic concepts such as population policies. Demography is the way in which states as well as supra-state structures account for their own populations. Accounting for population numbers within states is accomplished primarily by calculating total fertility rates (TFR), mortality rates and both immigration and emigration. These calculations, furthermore, are believed to influence state actors' decisions with respect to the administration of social policies that are considered to affect the size and characteristics of populations. For example, 'pro-natalist' policies are intended to encourage the growth of a particular population and immigration policies can be designed to control the characteristics of individuals who are permitted entry to any one state.

The role of the state in modern societies has had an effect on the ways in which demographers do their work, and the data that demographers have produced, moreover, have had an effect on various facets of the modern state. In order to understand how the state can have an effect on issues such as fertility, population growth and social policy, researchers have looked at the evolution of both the state and the welfare state as well as the functions of demography within it (Coale and Watkins, 1986; Klaus, 1993; Offen, 1991; Porter, 1995; Siim, 2000). It is important to note that although demographers are almost always tied to state organizations such as statistics bureaus, they are also tied to supra-state organizations such as the United Nations and the European Union (MacInnes and Perez Diaz, 2009: 428). This demonstrates that although the concept of population is a concern for nation-states, the 'state' is not the only context for the analysis of population and demography. The 'state,'

however, has most commonly been the focus of both demographers' and sociologists' analyses of demographic data such as fertility, population aging and modernization.

The modern state has always been interested in questions of demography (Coale and Watkins, 1986; Kreager, 1992; Porter, 1995; Teitelbaum and Winter, 1985). For modern states, questions of demography are assumed to give political leaders answers with regard to 'national' defence strategies, the provision of health care and education, labour shortages, the legal representation of population minorities, and the redistribution of public funds. In short, modern states are concerned with population numbers and those population numbers tend to reflect a kind of 'statist' or 'nationalist' ideology, whether that ideology be focused on military might, linguistic purity, the strength of the welfare state, or the cultural survival of a 'stock' that is regarded as 'different from' all other 'stocks.'

Although there is a literature that demonstrates that there is a relationship between questions of demography and the state as well as supra-state institutions (Chesnais, 1998; Klaus, 1993; Offen, 1991; Porter, 1995; Siim, 2000), very little exists to suggest that there is a relationship between questions of demography, the concept of population and sub-state nations that are not granted the full legislative, administrative and judicial powers of states. This, it will be argued, has left a gap in the literature on the concepts of population, demography and sub-state nationalism. In order to rectify this disciplinary oversight this thesis is designed to observe the relationships that exist between the sub-state nation, the concept of 'population' and the 'nation-building' power of social policy administration. Beyond these broad observations, it also seeks to analyze the relationship between the banal reproduction of the 'nation' by means of sub-state nation-building social policy, and the reproduction of the nation's 'population.'

The Role of Sociology in the Analysis of the State, the Nation and Population

Societies are reproduced over time by means of institutions, cultures and concepts of tradition. One of the most common ways in which the concepts of culture, tradition and continuity are reproduced in modernity is the nation (Anderson, 1991; Hobsbawm, 1990; Hobsbawm and Ranger, 1992). However, sociologists have tended to take for granted the fact that as nations get reproduced through time, so too are the individual members of national societies. As a result, the concept of nation-states has emerged as a major theoretical and empirical subject for historical sociologists on the one hand, and the concept

of 'populations' has emerged as a major empirical subject for demographers on the other. Despite these often disparate disciplinary interests, very little analytical material in either mainstream sociology or demography exists to suggest that there is an important relationship between the nation and the concept of 'population.'

In the literature on nations, states and nationalisms, it has been argued that both nations and states are conceived of as territorially bounded concepts. These territorially bounded concepts, moreover, are occupied by people who come to identify not only with the other individuals within a bounded space but also with the 'social' identity that is reproduced within that territory's borders. The demographic concept of a 'population,' according to Kreager (1992), developed not only in conjunction with the modern concept of the 'state' but also in conjunction with the modern concept of the 'nation.' A 'population,' according to Kreager, represents not only the number of people who occupy a territory but also a 'cultural ideal' for a group which has the objective of preserving its culture and ensuring its own survival (Kreager, 1992: 1641). The role of the state, therefore, is to legislate policy that facilitates the union of individuals' functions and desires within a national community in order to fulfill the national population's 'nation-building' objectives (Kreager, 1992: 1647). Although the relationship between social and individual identity has been explored at some length by sociologists, the fact that these identities can be conceived of both socially, through the reproduction of public institutions, and biologically, through the reproduction of individuals, has long been overlooked.

Van Krieken (1997) argues that the disciplinary relationship between sociology and demography suffers because demography too often depends upon abstract mathematical tools for measuring the correlation between numbers of people and the territorial boundaries that they occupy while sociological theory has not regarded the demographic features of a society to be of much, if any, analytical importance (446). What van Krieken suggests, moreover, is that sociology has emphasized the importance of individual and social identity in both its theoretical and empirical studies at the expense of analyzing the relationship between societies and demographic concepts that play such important roles in both individual and social identity formation (1997: 448). Those demographic concepts include: fertility rates, death rates, immigration patterns, the representation of population numbers in a given territory according to language spoken and many more. It is van Krieken's contention that the omission of demographic concepts from sociological analysis has meant

that sociologists have rarely questioned the association of 'reproductive' individuals to territorially bounded state structures.

Since the nineteenth century, political philosophers, economists and demographic theorists as well as their followers and critics have argued that there is a relationship between the concept of population size and the modern nation-state (Jacobus, 1995; Malthus, 1992 [1798]; Marx, 1978 [1857]; Nilson, 1952; Poovey, 1995; Pyle, 1994; Schofield and Coleman, 1986; Spengler, 1970, 1976; Teitelbaum and Winter, 1985; van Krieken, 1997). Believed to be the father of early modern population theory, Thomas Malthus wrote and had published *An Essay on the Principle of Population* (1992 [1798]) at the end of the eighteenth century. Therein the political economist argued that population, if left unchecked, would grow proportionately faster than the material goods that are required to sustain said population. One of Malthus' conclusions was that population growth would inevitably lead to more people having less material goods, making it increasingly difficult for people to achieve the status quo within their society.

Almost sixty years after Malthus' long tract on population growth, Karl Marx criticized Malthus for classifying individuals as economic units. In the *Grundrisse* (1857), Karl Marx's critique of political economy, the philosopher is highly critical of Malthus' assumption that those people who exceed the natural availability of food and space are accounted for as 'overpopulation.' Marx, conversely, believes that 'people,' not population, are either restricted or unrestricted by the availability of material necessities based not on how many people there are in a given society, but on how that society is organized. Thus, a society, according to Marx, in which a few individuals are allowed to accumulate material goods at the expense of others, is one that is poorly organized and leads to the condition that Malthus has termed 'overpopulated.' Malthus, Marx argues,

> regards *overpopulation* as being *of the same kind* in all the different historic phases of economic development; does not understand their specific difference, and hence stupidly reduces these very complicated and varying relations to a single relation, two equations, in which the natural reproduction of humanity appears on the one side, and the natural reproduction of edible plants (or means of subsistence) on the other, as two natural series, the former geometric and the latter arithmetic in progression. (Marx, 1978 [1857]: 276)

It has been suggested that what both Malthus and Marx accomplish in their analyses of the concept of population is not to question the connection between the concept of population and nations or states but rather to make an argument about the relationship between the size

of a population and certain universal economic conditions (Pyle, 1994). What the thinkers fail to theorize is that populations can only be accounted for quantitatively if they 'belong' to specific territorially demarcated polities. They can only be considered 'population' or 'overpopulation' in specific socio-economic contexts that are determined in modernity by the organization of the nation-states in which they claim association. What Malthus and Marx also fail to theorize is that the nation-states to which the populations of individuals 'belong' are also administered as reproductive systems in which the biological reproduction of a specific population is necessary to the social reproduction of the 'nation-state' (MacInnes and Perez Diaz, 2009: 431).

Much of this modern consternation over states' population sizes stemmed from the nineteenth- and twentieth-century observations that population numbers in Western European countries were growing at much slower rates than population numbers in European colonies as well as 'non-Western' nations. These apprehensions gave voice to a body of literature that is concerned with the concepts of populations, states and the idea of 'race' or 'ethnicity' (Anderson, 1991; Camiscioli, 2001; Hamilton, 1995; King, 2002; Kreager, 1992; Silverman, 1992). The rise of modern states as well as nationalism and imperialism have led social and political actors to extremes whereby some 'human populations' have been imagined to be both 'different from' and 'inferior to' *other* 'human populations.' The means by which authorities have subordinated and ruled 'human populations' in the past have included demographic tools such as censuses and maps. These tools 'profoundly shaped the way in which the colonial state imagined its dominion –the nature of the human beings it ruled, the geography of its domain, and the legitimacy of its ancestry' (Anderson; 1991, 164). Anderson's example of some of the uses of early modern demographic tools suggests that while colonialists used censuses to document discrete human populations, what they were actually doing was creating the necessary conditions in order to be able to imagine that such discrete human populations existed in the first place.

There also exists a literature that is concerned with examining the relationship between population policy, reproduction and the role of women and gender equality in society (Camiscioli, 2001; Folbre, 1994; Hamilton, 1995; King, 1998; Klaus, 1993; Krull, 1996; McDonald, 2000; Offen, 1991; Siim, 2000). Much of this literature, while useful to the analysis of changing gender roles and the administration of social policy in contemporary states tends to focus on women's roles as mothers and the concept of the 'double burden' rather than analyzing the connection between human 'reproduction' and societies'

conceptualizations of the 'nation' and nation-building projects. Such nation-building projects include legislation that is aimed at facilitating the birth and subsequent care of children.

In historical and contemporary social sciences the concepts of 'reproduction,' as well as 'population' and 'population policy' have existed at the fringes of social scientific discourses on modern nations, nationalisms and statecraft. These concepts have seldom been analyzed critically either within the disciplines of sociology, demography or any other social science that contends with the study of human populations and their correlative social scientific phenomena. Much of contemporary sociology, which is concerned with the reproduction of personal and social 'identity,' has dealt critically with the concepts of 'national' identity, and the social construction thereof, as opposed to considering how the individuals themselves who make up national communities get 'reproduced' within a national population. What the titular question of Philip Kreager's article suggests is that, like the nation and the state, the concept of a 'population' is also important to our understanding of modern societies. While sociologists as well as other academics have argued that the nation is a repository of various social characteristics, they have paid less attention to the fact that in order to reproduce the aggregate characteristics that are imagined to give meaning to any particular modern *nation*, individuals must also reproduce themselves as a *population*.

Until now research has been done on population policy and political regimes in Western Europe (Camiscioli, 2001; McIntosh, 1981, 1983; Klaus, 1993; Teitelbaum and Winter, 1985; Watkins, 1990; Winter, 1988), as well as the relationship between state-sanctioned social policy and its 'effects' on fertility (Björklund, 2006; Chesnais, 1998; Hyatt and Milne, 1991; McDonald, 2005; McNicoll, 1980; Merrigan et al., 2001; Milligan, 2005; Phipps, 2000). This research has found that population policy has differed in its purposes and intended effects depending upon social, political and historical contexts and that the 'results' of state-sanctioned population policies are often ambiguous when it comes to measuring the extent to which a population policy has had an effect on individuals' fertility behaviour.

Many thinkers in the disciplines of sociology, politics, philosophy and cultural anthropology have shown us that there is a relationship between nations, nationalisms, national identities and the multitude of ways in which these phenomena get reproduced (Anderson, 1991; Appiah, 2005; Billig, 1995; Brubaker, 1992, 1996; Gellner, 1983; Handler, 1988; Hobsbawm, 1990; Hobsbawm and Ranger, 1992; Ignatieff, 1993; Reicher and Hopkins,

2001; Sen, 2006; Smith, 1998; Yack, 1999, 2001; Yuval-Davis, 1997). Analyses within these disciplines have shown us the extent to which nations, nationalisms, and national identities form 'imagined' realities for individuals and groups. These 'imagined' realities, furthermore, provide the basis upon which individuals and groups have interpreted national identity in a multitude of different ways depending upon the ways in which individual identities such as race, gender, sex, age, ethnicity, class, professional membership, religion and political affiliation have become interconnected with monolithic public identities such as national heritage, public mythology and cultural history.

Some thinkers, moreover, have analyzed and interpreted the administration of national cultures and communities in the context of demography, demographic trends and both population growth and decline (Anderson, 1991; Coale and Watkins, 1986; Espenshade, 1972; Hamilton, 1995; Hammel, 1990; Henripin, 1989, 1994, 2005, 2006; King, 2002; Kreager, 1992; Krull, 1996; MacInnes, 2006; MacInnes and Perez Diaz, 2007, 2009; McIntosh, 1981, 1983, 1986; Myrdal, 1967; Ryder, 1964; Siim, 2000; Szreter, 1993; Teitelbaum and Winter, 1985; Watkins, 1986, 1990; Winter, 1988). The intersection of sociological and demographic thought, as it relates to theories of both the concept of population and the rise of the modern state, moreover, has produced a number of different conceptual approaches to the study of modern states and the nature of demographic change in modern society. These conceptual approaches include analytical responses to fertility, national power and gender identity and equality (Coale and Watkins, 1986; Folbre, 1994; Hamilton, 1995; Juby and LeBourdais, 1998; Kyriazis and Henripin, 1982; McDonald, 2000; McIntosh, 1983, 1986; Myrdal, 1967; Offen, 1991; Siim, 2000; Trofimenkoff, 1983); analytical studies of fertility, and national economic power, including the potential consequences of population aging on national welfare regimes (Caldwell, 1978, 2004; Chesnais, 1998; Day, 1992; Espenshade, 1972; Gee, 2000; Henripin, 2005, 2006; MacInnes, 2006; MacInnes and Perez Diaz, 2007; McDaniel, 2003; McDonald, 2005; McIntosh, 1981; Prince, 2000); and, academic investigations of fertility and demographic trends as they relate to different political ideologies, modern statecraft and the administration of social policy (Björklund, 2006; Caldwell, 2004; Caldwell and Schindlmayr, 2003; Chesnais, 1998; Folbre, 1994, 1997; Henripin, 2005, 2006; Köhler et al., 2006; McDonald, 2005; McIntosh, 1986; Merrigan et al., 2001; Milligan, 2005; Teitelbaum and Winter, 1985; Watkins, 1990; Winter, 1988).

What social scientists in the fields of sociology, demography and population studies have been able to do so far is to demonstrate that there is a relationship between modern trends of fertility decline and the social, economic and political functions of the modern nation-state as it is imagined to exist by national social and political actors. As a consequence of fertility decline due to what has been called the 'demographic transition' (Demeny, 1972; Kirk, 1996; Szreter, 1993; Thompson, 1929; van de Kaa, 1987), or the 'reproductive revolution' (MacInnes and Perez Diaz, 2005, 2009), social and political actors of various ideological backgrounds have proclaimed the importance of what some have come to call the 'fear of population decline' (Teitelbaum and Winter, 1985). This 'fear,' having manifest itself in various political positions taken in many European and North American communities since the late nineteenth century, has most often been expressed in the form of what we call 'natalist' or 'pro-natalist' population policy.

Examples of modern 'pro-natalist' policies include strategies to increase population numbers in (predominantly Western) national communities through social and economic incentives to parents to birth more children, as well as more recent examples of social policy aimed at facilitating the role of parenting in contemporary Western societies. The latter have largely been a part of what has come to be labelled 'work-life balance' initiatives. These policies aimed at increasing the birth rate of a particular 'population' in a particular political jurisdiction have not only been part of many nation-states' mainstream social policies but have also reflected more extreme nationalist political ideologies such as positive and negative eugenics (King, 2002; McIntosh, 1981; Siim, 2000; Teitelbaum and Winter, 1985; Winter, 1988).

What this thesis attempts to show is that, although a lot of this work has been beneficial to the development of new sociological analysis pertaining to the conceptual relationship of population numbers, modern nationalism and contemporary social policy, much of it has fallen short of the critical theoretical analysis that is needed to better understand the link between the concept of 'population' and nation-building objectives in modern Western societies. That is not to say that important forays into the study of the concept of 'population' and its relationship to 'national' state power have not been made before. Some social scientists have critically analyzed the relationship between nations, national power, state sovereignty and population numbers (Anderson, 1991; King, 2002; Kreager, 1992; MacInnes and Perez Diaz, 2009; Ryder, 1964; Teitelbaum and Winter, 1985). What these social scientists have done beyond the more superficial analyses of the functions of the

nation-state and its socio-political and economic relationship to the population of people who inhabit it, is that they have been critical of the ways in which the concepts of population and demography influence the intellectual contexts in which analyses of nations and nationalisms take place.

However, although most demographic research and social scientific research with a population or demographic component has taken place in a 'national' context, very little empirical or theoretical research has actually been conducted on the link between population, demography and nationalism and the ways, furthermore, in which this conceptual link is expressed publicly. Important research in this area includes Leslie King's (1998, 2002) analyses of pro-natalist incentives and nationalist ideologies in both Western and Eastern Europe, Phillip Kreager's (1992) study of the rise of the modern state and its effect on modern societies' conceptualizations of the 'nation' and the modern institution of demography, Teitelbaum and Winter's (1985) examination of the relationship between population decline and 'nationalist' ideological responses to demographic change, as well as C. Alison McIntosh's (1981, 1983, 1986) studies of the relationship between fertility, pro-natalist policies and nationalist ideology in Europe. This research has tended to demonstrate that there is a strong relationship between various nationalist ideologies and the concepts of fertility, population growth and social policies that encourage the reproduction of specific 'national' populations.

McIntosh maintains that 'Within Western Europe, political ideology is probably the best single predictor of attitudes toward population growth and policy' (1981: 194). Conservatives, McIntosh claims, 'have tended to view changes in population trends in terms of their consequences for the state and the nation; those who subscribe to socialist ideology regard population trends as dependent on conditions existing in the society' (1981: 194-5). Thus, although some researchers have drawn preliminary connections between various explicit 'national' ideologies and the kinds of social policies that are generated by specific political party mobilization, the relationship between population, policy legislation and the 'banal' reproduction of national identity remains underdeveloped. This reinforces the claim that there is a relationship between ideology, population numbers and nation-building policy projects that is worth further investigation.

Ryder's (1964) theoretical work on the concept of a population in national contexts, and Connelly's (2008) research, which focuses on the global history of population control,

emphasizes not only the fact that population control schemes have tended to take for granted the fact that individuals belong to 'national populations,' but also that these schemes have led to the implementation of diverse policies on population control such as 'family planning' programs, aggressive birth control, pro-natalism and eugenicism. Other studies have concentrated on population, pro-natalism and the concept of 'race' (Camiscioli, 2001), or, pro-natalism and the role of the 'state' (Klaus, 1993; Offen, 1991; Siim, 2000), but have not critically questioned the role of nation-building and nationalism in social and political representatives' public discussions of population policies.

Many of the academic undertakings quoted from above have successfully analyzed the connections that exists between demography, the modern state and its role in various policy-making arenas. Some (McIntosh, 1981; Teitelbaum and Winter, 1985) have also considered the relationship between explicit nationalist projects and the concepts of population growth and decline. However, none have examined the correlation between the everyday public representations of demographic concepts to the banal nationalist manifestations of pro-natalist discourse in policy-making contexts. These sorts of observations and analyses, it will be argued, are worthwhile additions to the literature on nationalism and social policy because they consider the ways in which nation-building projects might be used to not only encourage the social reproduction of the nation but also the biological reproduction of the nation's members. The idea that the nation's members are encouraged to reproduce the future members of the nation has hitherto been taken for granted. This idea has been taken for granted because contemporary 'pro-natalism' tends to be expressed 'banally' rather than 'hotly.' Thus, while researchers have analyzed explicit cases of pro-natalist policies in specific national contexts, they have neglected to analyze the everyday discourse of pro-natalism in specific national contexts.

Thus, what would lead to an even better understanding of the relationship between nation-building projects, states and populations in contemporary societies is a more intricate analysis of the association between the sub-state nation, nation-building objectives and the concept of population. This might be done in various ways. For example, in this thesis it is proposed that analyzing the administration of public policy in a sub-state nation where the concept of 'population' is made more visible to the public can be a useful exercise in the generation of new data. This thesis will investigate whether or not the relationship between population and nation is not only made visible through explicit population policy but is also reproduced 'banally' through the routine administration of family policy.

'Banal Nationalism' is a concept that was introduced to the literature on nationalism studies by Michael Billig (1995). In his study of the ways in which national symbols and collective identity are reproduced for public consumption, Billig suggests that 'national identity' is reproduced publically in a way that is both 'obvious' and taken for granted. Although much of the research on nations and nationalism has focused on 'hot' nationalist movements, Billig notes that nationalism is a form of collective identity and ideology that is represented by banal everyday objects and institutions which are often taken for granted by the people who encounter them routinely. That is, the symbols of heritage and culture that link individuals to one common 'nation' are visible in common everyday objects and occurrences such as flags and public broadcasting on the radio or television. These symbols, Billig argues, are 'the reasons why people in the contemporary world do not forget their nationality' (1995: 7).

These symbols, furthermore, are seldom questioned because, imagining the nation in contemporary societies has become a normative function of modern citizenship and is deeply ingrained in common discourses regarding the existence of individuals as the members of nations and states. It is argued in this thesis that population numbers and policies relating to them, have also tended not to be questioned because their existence is a normative function of the existence of modern states. Because population numbers and policies have, in the past, been taken for granted, their analysis has been limited to the categories of research listed above and their relationship to nation-building has tended to be overlooked.

One of the most common ways that banal nationalism is flagged, Billig argues, is by politicians. As the representatives of specific nation-states, politicians will always 'seek to address the nation' (1995: 11). By performing the routine tasks of policy administration, a politician reproduces the concept of the nation by addressing his or her constituents as the members of a specific group, beyond which it is imagined that there exist many other *different* groups. What Billig omits from his analysis of banal nationalism and the everyday reproduction thereof is that the public for whom banal nationalism is constructed is also a *population*, which, like the nation, is also reproduced. Like the reproduction of the nation, moreover, the reproduction of a population can also be encouraged at the banal nationalist level of policy administration and public symbolism. Population policies demonstrate that the 'we' of the nation must be reproduced demographically, either by controlling or encouraging fertility, as well as conceptually at the level of public representation.

This study, like Michael Billig's *Banal Nationalism* (1995), contends that 'population policy' is reproduced in a 'national' context wherein populations, like nations, are reproduced within a wider world of populations and that these 'populations' are usually believed to be coterminous with the nation or the nation-state. The ways in which 'population policy' is reproduced in national contexts, it is argued, are banal and tend to maintain the dominant ideological habits of the political party representatives who advocate them. This thesis explores the extent to which the reproduction of populations, like the reproduction of nations, is assumed to take place within a 'national' boundary and the extent to which the reproduction of the nation's inhabitants is assumed to play a significant role in the reproduction of the 'nation' over time. However, this case study is peculiar in the sense that the 'national' context which is being observed is a sub-state nation. Therefore, although legislators can be observed to be 'unaware' of invoking the Québécois nation as well as the concept of a specifically Québécois population within the province, references to the nation in the context of federal Canada tend to be made more explicitly. Thus, this thesis observes the degree to which the 'we' of the nation, which politicians use to refer to the Québécois nation both 'banally' and 'hotly,' is or is not also used in the context of the Québécois 'population.'

Furthermore, like Billig's study of banal nationalism, it is argued in this thesis that the link between population and the nation can be observed by analyzing public representations of social policies that evolve not only in the context of a specific nation or nation-state unit but also in the context of a population and its various demographic characteristics. What this analysis will consider is the extent to which social policy is not only concerned with nation-building and the conceptual reproduction of the nation but also with the demographic reproduction of the nation's population.

It is also worth noting that although there are methodological similarities between this work and Billig's, epistemological motivations can be characterized differently. Various approaches to the study of nations and nationalisms were discussed above where it was mentioned that Billig is a social constructivist. Although, like Billig's *Banal Nationalism* (1995), this project analyzes public discussions of the concept of 'population' and it also examines the kind of language that social and political representatives use on the public record in order to create 'national' contexts, it does not seek to 'deconstruct' the nation. That is, the approach to nations and nationalisms adopted in this project is predominantly modernist. It seeks to analyze the relationships that exist between particular concepts and

certain state institutions such as legislative assemblies and courts of law. Doing so, the project takes for granted the fact that both nations and states are real ways of organizing societies that are made possible by virtue of modern developments in forms of social organization.

Thus, although the project examines 'banal' or everyday representations of Québécois sub-state nationalism in the context of a population policy in order to show that the concept of population as well as other demographic variables have hitherto been overlooked in the study of nations and nationalisms, it does not make any claims to 'deconstruct' the nation or the concept of 'population.' Rather it proposes that populations, like nations, are reproduced in specific territorially bounded contexts and that observations of the relationships that exist between the concept of population, the nation and nation-building projects may give researchers a better opportunity to understand the ways in which nations and nationalisms get reproduced during the legislation of social policies that have population dimensions.

Conclusion

As stated above the purpose of this project is to fill a perceived gap in the literature on nations and nation-building that concerns the association between the concepts of population, nationalism and nation-building. In order to accomplish this task this project will draw from many existing theoretical debates within which sociologists have already tackled issues relating to the concepts of national identity, the 'state' and the concept of population growth and decline in modern societies. Beyond this review of the sociological literature that exists on nations, nationalisms and the role of the state in the legislation of social policy, the aim of this thesis is to conduct a preliminary study on the relationship between nationalism, nation-building projects and population policy. The purpose of this preliminary study, furthermore, is to draw further disciplinary attention to this under-developed area in social and political studies.

The particular case that was chosen for this preliminary study is that of Québec and the Québec Parental Insurance Plan. Québec was chosen for both its status as a 'sub-state' nation, and for its ability to legislate its own social policy. The sub-state nation with the power to legislate its own social policy provides an exceptional case for the study of both the 'banal' and 'hot' characteristics of nationalism and its relationship to the concept of population. The concepts of both banal and hot nationalism, furthermore, highlight the

extent to which the concept of 'population' is reproduced at the level of social policy but is also problematized in sub-state jurisdictions where disputes over sovereignty challenge the banal character of a sub-state nation's boundaries. Because Québec has certain devolved powers of a state, it is possible to examine how the provincial polity uses its status as a 'nation' within federal Canada to claim that its own population of French-speaking people is distinct from the population of the rest of Canada's other provinces. In Québec, as was explained above, the nation and the state are often confounded. This makes the boundaries that are drawn around a 'population' contested and more visible. Demographers, it is argued, have scarcely problematized the boundaries of 'populations' and have taken the categorization of individuals according to 'nation-states' as given. This has led to the omission of any kind of significant analysis of the relationship between states, nations and populations in both historical and contemporary sociology.

In order to explore the significance of the relationship between the concepts of 'population,' the nation and nation-building projects for researchers in the area of nations and nationalisms, the rest of the thesis will proceed according to the following chapters:

Chapter 2 is an explanation of the methods and methodology that were employed throughout this thesis. It explains in greater detail the reasons for using both Québec and the Québec Parental Insurance Plan as a case study. It gives the reader an account of data collection processes and a justification for using the sources that were used to come to the conclusions that are represented in this work.

Chapter 3 is an empirical chapter that gives the background of Canada's federal system, the confederation of French and English colonies, elements of the constitution that come to bear on the legislative processes of Bill 140, and a brief historical account of population policy and demography in Québec from the nineteenth century onward.

Chapter 4 details the evolution of Bill 140 between the years of 1996 and 2006. It explains who was involved in the pre-legislative development of the parental leave scheme and who was responsible for both phases of its legislation. Also, it gives an account of the judicial disputes that took place concerning jurisdictional sovereignty over the matter of implementing a parental insurance plan. Finally, it compares the QPIP to other white paper policies that were legislated at the same time as the parental leave program. This comparison suggests that although many social policies in Québec have had nation-building

as one of their objectives, the QPIP was different in the sense that it made the relationship between nation-building and population numbers much more explicit.

Chapter 5 analyzes the major judicial disputes that took place between federal and provincial government representatives with regard to Québec's legislative sovereignty over the provision of maternity and parental leave benefits. It considers to what extent the jurisdictional battles played a role in Québec representatives' articulation of the QPIP as a 'pro-natalist' policy.

Chapter 6 looks at the ways in which the QPIP interacted with other policy agendas, especially gender equality and work-life balance initiatives. It considers to what extent these plans were overlooked during the jurisdictional battles in order to emphasize population issues and the concept of biological reproduction.

Chapter 7 examines the empirical evidence which suggests that 'birthed' children were given precedence over 'adopted' ones in the context of the jurisdictional battles that took place over the QPIP. The chapter contends that population issues were made more significant by legislators' narrow interpretations of the logic of social programming, and that as a result of the judicial interpretations of Québec's sovereignty in the matter of the QPIP, Québec legislators represented the concept of population in a discourse of 'banal natalism.'

Chapter 8 concludes the thesis by summarizing what the project has accomplished. It suggests how researchers may proceed with further studies of nations and nation-building projects that are also influenced by public conceptualizations of population and the role of demography in the reproduction of the nation.

<u>Chapter 2: Documenting the Relationship between Public Ideas and Population Policy: A Case Study Methodology</u>

An approach to the topics of population policy, nation-building and nationalism is necessarily multi-disciplinary, spanning literature in the disciplines of sociology, politics and demography. This thesis bridges some of the perceived gaps in the literature on the administration of population policies, nationalism and contemporary nation-building projects and it also suggests possible routes for further theoretical development of this topic. Although exisiting research has focused on a multitude of legislative policies that have contributed to states' 'nation-building' agendas, not many have analyzed the relationship between population policies and the concepts of nationalism and nation-building. Kymlicka suggests that 'liberal-democratic states have historically been "nation-building" states' in the sense that 'they have encouraged and sometimes forced all the citizens on the territory of the state to integrate into common public institutions operating in a common language' (2001: 1). Nation-building tools, Kymlicka argues, have included 'citizenship and naturalization laws, education laws, language laws, policies regarding public service employment, military service, national media and so on' (2001: 1). Although the concepts of nationalism and nation-building are commonly analyzed in historical sociology, few sociologists have examined the topic in relation to states' administration of population policies.

This thesis considers to what extent population policy can be argued to play a role in nation-building projects in a specifically sub-state national context. It makes general observations and suggests that the specific sub-state national context of Québec is an ideal place to analyze these observations. Thus, this thesis is primarily a case study of one particular population policy that has the purpose of generating information with regard to how the relationships between population policies and other 'nation-building' political agendas may be observed in future cases. Beyond these general observations, the case study also suggests that these relationships are made particularly visible in a sub-state national context where decisions regarding the legislative and administrative boundaries of any one particular jurisdiction play important roles in public discussions of sub-state national identity.

It is the contention of this thesis that the role of population policy, demography and nationalism in nation-building projects is an area that has been under-developed by researchers in the disciplines of sociology and demography. The scarcity of both theoretical and empirical treatments of the subject area has encouraged this project's focus on empirical observations relating to the legislation and implementation of the Québec Parental Insurance

Plan (QPIP). These observations stem from a broad interest in the ways in which nationalism and population policy may interact with other political agendas and traditions of thought in Québec and Canada such as feminism, social democracy, the growth of the welfare state and federal-provincial relations. It is for these reasons that the QPIP is analyzed in the context of a group of social policies, known as 'white paper policies,' which preoccupied both legislators and social policy activists at the time of the QPIP's initial introduction to Québec society in 1996.

The 'white paper policies,' as briefly mentioned in the chapter above, were a broad set of family policies tabled by the members of the provincial political party, the Parti Québécois, that had the purposes of reducing poverty and social exclusion, especially among low-income families, initiating return-to-work policies for women who had exited the labour market, encouraging gender equality and employment opportunities for individuals with precarious ties to paid employment, and of facilitating work-life balance with the implementation of a more extensive maternity and parental leave benefits plan. The Parti Québécois' white paper policies eventually took the legislative forms of Bill 145, the act that eventually established the parameters of Québec's 5-dollar-a-day day care program, Bill 112, Québec's law against poverty and social exclusion, (the first of its kind in North America), and Bill 140, the Québec Parental Insurance Plan. The context of these policies will provide a means by which to observe the difference between social policy that may have the explicit purpose of influencing population size and other social policies with varied social agendas such as gender equality or the reduction of poverty.

The rest of this chapter will focus on why the project was conducted as a case study, why Québec and the QPIP were used as a case study, what sort of sources were used to collect data relevant to the thesis and how the evidence relating to the possible relationships between population policy, nationalism and nation-building was dealt with. The chapter will give an account of what was done to collect and to analyze the data pertaining to the Québec Parental Insurance Plan, the plan's rationale and its influence on public representations of 'nation-building' and 'national identity' in the sub-state nation. Hereunder the methodological approaches to the data collected will be explained with a view to establishing the authenticity and validity of the research project as a whole. The empirical evidence from which the observations are hereunder drawn came from an extensive array of various materials related to the legislation and implementation of the Québec Parental Insurance Plan. Finally, the chapter makes an argument for the analysis of material on the public

record and why it was believed to be representative of the relationship that was expected to be observed. Unlike conventional analyses of policy legislation, the following analysis is not of the legislative process itself but rather of underlying sub-state nationalist ideologies that became more visible on the public record within specific legislative contexts. Thus, the data that are analyzed in order to observe what sort of relationship is present between nation-building and population policy exist on the public record as examples of public discourse in their own right.

Rationale for collecting and analyzing Data on the Public Record

Unlike conventional accounts of policy processes, this thesis is a study of ideology that pertains to the nature of population numbers and population growth in a specific national context. It seeks to understand what kinds of relationships, if any, exist between the concepts of nation-building and social policies that have the purpose of encouraging higher birth rates among a population that is believed to 'belong' to a specific national territory. Thus, rather than seeking the personal insights of actors involved in the legislative process of the policy itself, observations were carried out by analyzing the structure of arguments that were made by various social and political actors on the public record in specific historical, judicial and legislative contexts. As Wodak et al. explain, it is believed that '[…] the various discursive constructs of national identity are given different shapes according to the context and to the public in which they emerge, all of which can be identified with reference to content, strategies and argumentation patterns, as well as according to how they are expressed in language' (2009: 3). Because public record accounts of social and political actors' understandings of the meaning of Bill 140 *An Act Respecting Parental Insurance* detail the bill's public reception both during legislative and judicial processes, personal interviews with legislators and policy actors were not sought for inclusion in the analyses detailed below.

This thesis emulates Michael Billig's study of banal nationalism in three key methodological ways. Like Billig's work, this thesis is a 'preliminary study, which feels its way around the topic' (Billig, 1995: 9). For this reason, the study is not intended to be generalizable. Furthermore, like Billig's study, this thesis attempts to provide an investigation of a concept that has hitherto escaped sociological inquiry by covering some of the basic issues that create the relationship under investigation and by providing examples of its existence. Finally, like Billig's work, this thesis attempts some critical analyses of the topic being scrutinized by

surveying interlocking themes and exploring related topics in light of preliminary observations. However, because the sociological theory that would be most appropriate to analyze the link between nationalism and population has yet to be produced, the study is often limited to observations that set the stage for further empirical and theoretical inquiries in the field.

Because this thesis is concerned with making observations in an empirical field of study where little empirical and analytical material exists, it was important to narrow observations by selecting certain data for analysis. The data collected during the research for this thesis that were relevant to its intended observations and preliminary analyses were multiple but limited to information available on the public record. The rationale behind this decision was that the evidence that was collected was intended to represent the extent to which a population policy interacts publically with other nation-building objectives. Like Billig's *Banal Nationalism* (1995), this thesis analyzes the ways in which ideas relating to the concepts of nation and nation-building are reproduced in the public arena for consumption by the members of the public for whom they are conceptualized.

Unlike some studies in demography, which have attempted to show that there is a relationship between population policies and individuals' fertility behaviour (Björklund, 2006; Chesnais, 1998; Henripin, 2005, 2006; Hyatt and Milne, 1991; Köhler et al., 2006; McDonald, 2005; Merrigan et al., 2001; Milligan, 2005), this project is an examination of the relationship between population policy and the expression of popular nationalism. It does not indicate whether or not political elites or other social and political representatives are successful or not at implementing population policies as nationalist strategies to encourage population growth. Rather, like Whitmeyer's (2002) study of elites and popular nationalism, it is argued hereunder that 'elites do *affect expressions* of popular nationalism, and do *take advantage* of popular nationalism and *use* it to their own ends' (321). In the particular case that is analyzed below, the researcher examines the degree to which both claims to political sovereignty over the legislation of maternity and parental leave benefits and elements of the bill itself made the association of the concepts of population, demography and the expression of both nationalism and national identity in Québec much more visible on the public record. The extent to which the visibility of this relationship can also be attributed to the nature of sub-state nationalism in Québec, the province's constitutional relationship with Canada, and the jurisdictional battles that ensued over the legislation of the Québec Parental Insurance Plan was also taken into consideration.

Because this project evaluates what political actors from various political party organizations said concerning a specific policy that was intended to influence birth rates, the collection of data was limited to what social and political actors said on the public record *as* the representatives of political parties or various social or political organizations. For that reason personal insights into the topics of population policies and nationalism were not sought by means of personal interviews. In this thesis data collection has been limited to public statements in order to make clear observations about the nature of population policy, its genesis in public discussions among legislators and social actors and its political role in sub-state nation-building projects.

This is also true of the representatives of the trade unions and social organizations who lobbied the Québec provincial government between the years 1996-2006 for the best possible family policy programs. Personal interviews with the members of these organizations were not sought to be included in the data collection or analysis for this project because although the personal opinions of policy-makers may have given the researcher insight into the views of whether or not the QPIP was 'pro-natalist,' or whether or not the public policy had alternative purposes, it was believed that interviews would not elicit public actors' rationales for reproducing 'banal' beliefs and behaviours in the public sphere. These banal reproductions of 'national' interests, it is argued, were best analyzed in their public contexts. Furthermore, public actors' personal beliefs and behaviours as well as the rationales given for them were *not* a major concern or subject of this thesis.

Why a Case Study?

A case study, according to Creswell, is a 'study of a "bounded system" with the focus being either the case or an issue that is illustrated by the case' (1998: 249). This methodology, moreover, 'provides an in-depth study of this "system", based on a diverse array of data collection materials, and the researcher situates this system or case within its larger "context" or setting' (Creswell, 1998: 249). In this project the 'bounded system,' or, 'the case,' is the Québec Parental Insurance Plan. The legislation and implementation of the QPIP represents a set of social and political phenomena that are bounded by time (1996-2006). The year 1996 marked the beginning of discussions amongst policy actors that concerned the possible legislation of a new parental leave scheme in Québec, and the year 2006 marked the implementation of the plan in Québec society. The boundedness of these years represents a

set of social and political phenomena related to the Québec Parental Insurance Plan from which it is possible to draw on multiple sources of information (Creswell, 1998: 36). Also, the QPIP represents a set of social and political phenomena from which it is possible to provide the reader with many descriptions of context and setting (Creswell, 1998: 36).

This project was conducted as a case study for reasons briefly mentioned above. Those reasons included the fact that the purpose of the thesis is to make general observations and to analyze those observations in the context of a sub-state national society. The purpose of the project, therefore, is not to deduce generalizable theories but rather to investigate whether or not a particular relationship exists in a particular context and whether or not this relationship may be worth further investigation in other contexts in order to build up a more significant literature on the topic. Because theoretical material concerning the relationship between population policies, nationalism and the modern state is limited to that which was discussed in chapter 1, it is difficult to generalize ideas and is more useful to highlight particular areas of a specific case that are ripe for further investigation.

This case study began with the general observation that many political representatives in Western national societies tend to see the growth or stability of *their own* population relative to the populations of other nations as a desirable goal. Population decline is usually regarded as a problem and, in some contexts, as an urgent one, requiring political intervention (Henripin, 1989, 2005, 2006; King, 2002; McIntosh, 1983, 1986; Teitelbaum and Winter, 1985). This general observation, however, became more refined in the context of this particular case study.

The case study is a methodology that allows the researcher of population policies to investigate the peculiarities of one specific policy and the details of its genesis at one particular political moment in a political jurisdiction's history. This, moreover, allows the researcher to concentrate his or her data collection and analysis based on the boundaries of time and place. This project was developed as a case study because, although it concerns one legislative policy that was legislated at two moments in time, it still represents a 'bounded system.' That 'bounded system' is a legislative one wherein a policy was passed by two different governments and implemented by one of those governments within a specific time frame. Although Bill 140 was passed by two different governments (the PQ government in 2001 and the PLQ government in 2005), it represents one policy in one relatively circumscribed politico-historical timeframe in Canadian and Québécois society.

<u>Why Québec?</u>

Because scholarly analysis of the relationship between nationalism, nation-building and population policy has been limited to that which was discussed in chapter 1, this thesis undertakes the analysis of a particular legislative policy enacted by the government of the Province of Québec in 2006 in order to explore the relationship in much greater detail. The purpose of this exploration is to act as a preliminary study of the relationship between the concepts of population policy, nationalism and nation-building projects in the sub-state nation of Québec. Its objective, furthermore, is to consider to what extent social and political representatives in Québec may or may not make use of the concepts of population, demography and fertility in the public administration of social policy to elicit feelings of national identity and national belonging in the public sphere. The reasons for using Québec as a case study are numerous but they can be summarized by stating that Québec is an ideal place to consider nationalism and population policy because the province has an explicit nation-building agenda and this agenda interacts with other policy-oriented projects. Also, historically, nation-building projects in Québec have had demographic components and 'pro-natalist' ideology, as we will see in chapter 3, has influenced certain traditions of thought.

Furthermore, both national boundaries and policy-making agendas in Québec are in some ways limited by Canadian 'federal' jurisdictional claims as well as 'federal' nation-building and policy-setting agendas. The jurisdictional battles that occur between federal and provincial levels of government, moreover, make much more visible each jurisdiction's claim to its own population and that population's access to policy programs that encourage individuals' well-being and social cohesion *as* the members of a particular cultural and political community. The lessons that can be learned from a case study set in a sub-state nation on the association of population policy, nationalism and nation-building are many but can be generally grouped according to the following four observations.

First, the analysis of populations in the contexts of states has already been given some attention by social scientists and demographers (Connelly, 2008). This is because, traditionally, states have been the focus of demographic projects in which the state is assumed to be the logical contextual boundary for both the study of the characteristics of populations and the administration of public policy. Thus, an analysis of the relationship

between population, social policy and a sub-state jurisdiction challenges the commonplace definition of policy-makers' target 'populations.'

Second, an analysis of the relationship between a sub-state nation and conceptualizations of 'population' raises questions about political authority and a sub-state nation's ability to legislate policy wherein issues of 'population' may take on any kind of public significance. For example, in Québec, social programming is considered to be a legislative matter of provincial jurisdiction. However, this does not mean that all forms of social policy can be negotiated at the provincial level. This, as we will see, limits the sub-state nation's power over the legislation of matters that it may deem to be of 'national' importance to its own members such as population control.

Third, the public discussion of population issues in sub-state nations does not only problematize the sub-state nation's authority over the legislation of social policy but it also demonstrates the extent to which a sub-state nation's claim to its own political sovereignty through the administration of policy allows it to distinguish its own population from the population of the state under which it is governed as well as the populations of all other states that lie beyond its borders. Finally, political nationalism and the politics of nation-building are often made more explicit in sub-state nations where the full sovereignty of the state has not been attained. This allows the researcher to observe what kind of relationship, if any, exists between a sub-state nation's –sometimes disputed– sovereignty over social policy administration, its political nationalism and its representatives' public interpretations of the concept of 'population.'

In order to establish whether or not there is a relationship between the nation and population that is worthwhile investigating at greater length, this thesis, as was stated above, will analyze a specific social policy that was legislated in the National Assembly of Québec. Québec is a good context for a case study on the relationships between population and the nation because, as it has already been stated, its status as a 'nation' is contested. It has, traditionally, distinguished itself from all other Canadian provinces by virtue of its cultural and linguistic difference from the primarily Anglophone provinces that make up the rest of the Canadian state. Québec is not only peculiar because its population is primarily French-speaking but because of the nature of Canadian provinces' roles in the Canadian federal state. Since confederation in 1867, Canadian provinces have been tasked with the legislation

of social programs and, because of that, they claim a certain degree of sovereignty over social policy in each of their own jurisdictions.

In Québec, this provincial sovereignty, in conjunction with the province's cultural and linguistic difference from all other Canadian provinces, has meant that social programming in the province has taken on a kind of 'nation-building' role in a way unlike any other province. It is for this reason that it seems appropriate to analyze a social policy that was legislated in the province in order to explain the link that exists therein between the concept of the Québécois 'nation' and the primarily French-speaking 'population' for whom the 'nation-building' project was designed. Furthermore, using Québec as a case study enables researchers to discriminate between the role of population in both the state and the nation; this is because, although Quebecers may form their own sub-state 'population,' that population is still subject to the laws and jurisdictional authority of the Canadian federal state.

Québec itself is thus an interesting case study for four reasons. First of all, it is suitable as a case study because political representatives in the province treat the jurisdiction as though it were a nation even though this status is sometimes contested in the rest of Canada. This makes issues concerning the boundaries of Québec's *own* population more visible than they would be in a homogenous nation-state. Second, Québec has an important linguistic dimension. The province, unlike any other Canadian province, is primarily French-speaking and has, historically, drawn on this linguistic identity to conceptualize its political identity as a French-speaking 'nation' within Canada. This linguistic identity, furthermore, has occupied an important place in Québec's demographic history and has also served the purpose of demarcating Quebecers' *difference* from all other Canadians. Historically, linguistic difference has played a role in the way that English and French-speaking colonies were united in confederation and continues to determine the province's interaction with the rest of Canada during constitutional debates and the administration of federal-provincial agreements. Linguistic and cultural difference, thus, are some of the ways by which the population of Québec is accounted for differently from the population of the rest of Canada or the population of other nation-states in North America.

Language has traditionally characterized the *difference* of Quebecers from the rest of Canada even when the Catholic clergy was the dominant authority in the French-speaking province in the latter half of the nineteenth and early part of the twentieth century (Handler, 1988;

Kennedy, 2004: 502; O'Connell, 1953). Language has remained one of the key symbols of Québécois nationalism and the keystone in the arguments for the protection of a minority culture in Québec. Because it is assumed that the power of 'representation' in the federal system is contingent upon the extent to which a group is 'representative of' the federal state as a whole, population numbers have been important to the rhetoric of formal minority recognition in Québec. The discourse of language rights in the province has provided one of the bases for much of the demographic data that appears in the statistics bureaus in Québec with the constant comparison of French-speaking population numbers in the province to English-speaking population numbers in the rest of Canada. Language has also provided the basis for several federal constitutional provisions and provincial legislative acts that recognize the unique status of 'Quebecers' and the French language within Canada.

The third reason why Québec is a good case study is because Québec has had a long history of both explicit population policies and social policies aimed at reducing individuals' burdens when it comes to having families. It is possible to trace the existence of population policies in the province from colonial settlement to the nineteenth century, and through the expansion of the welfare state in the twentieth century into the twenty-first century (Krull, 1996; Trofimenkoff, 1983). It is possible, moreover, to observe the changes that took place throughout different historical periods with regard to the nature of population policies in Québec and political nationalism in the province.

Québec is a good case study because it is possible to observe that the nature of the relationship between population policy and nationalism has changed in tandem with the functions of the provincial state and the character of political nationalism in the province. Such functions as well as the connection of the welfare state to Québec nationalism will be discussed in further depth in chapters 3 and 4. The relationship between the provincial state, its legislative sovereignty over social programs and the nature of political nationalism in the province continues to change contemporaneously because of the nature of federalism and constitutionalism in Canada. Because federalism and constitutionalism in Canada are political processes, rather than static institutions, the ways in which sovereignty over policy legislation gets debated between federal and provincial levels of government is also left to social and political actors' interpretations of contemporary political contexts.

This leads to the fourth reason why Québec makes for a meaningful case study. That is because the province exists within a federal system. That federal system, as was already

stated, is one in which sovereignty over the legislation of social programming is primarily devolved to the provinces. Although Québec can be considered a 'sub-state nation' it is also sovereign over social welfare programming for its citizens. Social programming, moreover, is the arena in which most routine social policies are articulated as population policies. In Canada, sovereignty over the legislation and implementation of social programs is currently, and, historically, has been the devolved power of the Canadian provinces. This exclusive power of Canadian provincial governments dates back to Canada's first official constitution which was enacted in 1867. Québec, as well as other Canadian provinces, possess considerable power as sub-state jurisdictions because of the exclusive powers that are accorded to provinces in the Canadian Constitution. However, Québec, unlike any of the other Canadian provinces, has wielded this power in a specifically 'national' context.

That is to say, provincial sovereignty has made social programming in the province of Québec an explicit context for nation-building projects. It has also provided a context within which political actors at both the provincial and federal levels of government have challenged each other's jurisdictional powers. The Canadian Constitution, which gives provincial governments and the federal government specific jurisdictional powers, can be contested when representatives of either the provincial or federal governments feel that their jurisdiction's sovereignty has been encroached upon by virtue of the legislation of a particular legislative policy. These jurisdictional battles often make it possible for sub-state national representatives in Québec to make the issues of provincial sovereignty and national identity more visible.

Reasons for looking at the Québec Parental Insurance Plan

The policy being analyzed in this thesis is Bill 140 *An Act Respecting Parental Insurance*. Debated, legislated and implemented between the years 1996-2006, Bill 140 has most commonly come to be known as the Québec Parental Insurance Plan (QPIP). This particular legislative policy is one that allows the researcher to look at how social and political actors made use of the concept of population publicly and whether or not the representation of the concept of population on the public record was influenced by Québec's status as a sub-state nation. It is also an empirical forum in which one can assess to what degree population policy was something that was made explicitly part of the political agenda. Because the plan replaced the federally legislated maternity and parental leave benefits offered to Canadian parents under the federal *Employment Insurance Act* (EIA), the policy also allows the

researcher to explain the extent to which the concept of 'population' was treated as a sub-state 'national' category in the context of the legislation of Québec's own parental leave benefits plan.

The Québec Parental Insurance Plan was introduced to the National Assembly of Québec in 1999 as part of a group of social policies that were aimed at reducing poverty, social exclusion and gender discrimination in the province. It was part of a group of family policies initiated in 1996 by trade union activists and social actors. Many of these policies were turned into 'white paper' policies by the pro-sovereigntist Parti Québécois in 1997. [2] This initiative included several proposals. The first proposal entitled 'Le choix des enfants' outlined a strategy to stabilize the financial incomes of single-parent families. Moreover, it proposed free access to medication for all children, the renovation of social housing, and education reform. The second part of the proposal entitled 'La politique familiale' addressed the issue of maternity leave, access to affordable day care, and it reinforced the idea that, regardless of their economic status, all parents should have the right to devote time to their newborn children or recently adopted child without incurring financial penalties (Gouvernement du Québec, b). The third part of the proposal was entitled 'Équité et emploi.' It outlined the favourability of employment opportunities and return to work policies.

As the plan evolved from social actors' vision of a 'Québécois' parental leave program in 1996 to a fully legislated and implemented act of legislation in 2006, ideas concerning the purpose of the plan in Québécois society changed. Affected by social and political change such as a change in government in 2003 from a pro-sovereigntist party to a federalist party, the ways in which the parental leave plan was presented to the public once it was introduced to the National Assembly of Québec in 2000 focused on the concepts of fertility and population growth in the province rather than on the concepts of poverty reduction, work-life balance and social exclusion.

The administration of the Québec Parental Insurance Plan was further complicated by the role of the Canadian Constitution and the Canadian federal government in the legislation of the policy. This complication occurred because it was argued by representatives of the

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[2] 'Livres blancs,' or, 'white papers' are 'official announcements of policy' on the part of a government, and are usually followed by legislation (Handler, 1988: 112, n.2).

Canadian federal government that a parental insurance plan, like an employment insurance plan, was essentially an income replacement fund, not a social program, and, as a consequence, fell under the legislative remit of the Canadian federal government and not the Québec provincial government. The purpose of this project, therefore, is also to assess to what extent the division of powers between Canadian federal and provincial governments affected how political actors presented Bill 140 publicly in order to argue that it lay within Québec's jurisdiction, and remained Québec's 'right' to legislate in this area. This, it will be argued, led to a much more explicit emphasis on the representations of the concepts of demography, fertility and population.

Although the administration of social policy may be routine at both the provincial and federal levels of government in Canada, this routine is often met with discussion and debate over devolved sovereignty on federal and provincial matters. The ways in which political actors manoeuvre their own political and territorial interests in Canada tend to contest the sovereign statuses of provinces within the Canadian federal state. This is especially true in Québec where the identity of the province as a sub-state nation has been largely disputed. Because debates with regard to Québec's provincial sovereignty are commonplace, they challenge traditional constructions of banal nationalist rhetoric. This is because federal challenges to Québec's status as a nation represent challenges to the boundaries of the nation and, therefore, they also challenge the contexts of banal nationalism in the province. This, in turn, makes disputes over Québec's status as a nation and its ability to legislate 'nation-building' social policies more visible.

In this thesis it is proposed that the most useful way to analyze the relationship between the banal reproduction of the nation and the concept of population is by observing the debates that took place publicly between social and political actors in the lead up to the implementation of the Québec Parental Insurance Plan. In order to observe and to analyze the connection between the concepts of population, nationalism and nation-building, it is proposed that researchers take a closer look at the 'politics of ideas' (Béland and Babich, 2009) that surround the emergence of policies that may or may not have a population component. Like Béland and Babich's (2009) study of the emergence of the Canada/Québec Pension Plans in 1965, this research project is focused on the debates that took place between social and political actors at both the federal and provincial levels of Canadian and Québécois governments during the legislation and implementation of the Québec Parental Insurance Plan. Like Béland and Babich's study, furthermore, the purpose of this study is to

analyze the political debates that led to the enactment of a particular legislative policy. This, as it was stated above, can be achieved by analyzing the debates that took place on the public record between provincial and federal government actors in order to come to a consensus regarding the legislation and implementation of Bill 140 *An Act Respecting Parental Insurance*.

The Québec Parental Insurance Plan (QPIP) is a maternity and parental leave policy that, like the maternity and parental leave benefits offered to Canadians under the *Employment Insurance Act*, is earnings-based and can be bought into by virtue of an individual's participation in paid labour. The QPIP includes four types of potential benefits. They are: Maternity benefits, Paternity benefits, Parental benefits, and Adoption benefits. There is also a supplement for low-income families whose net family income is under $25,921. In order to pay for this insurance plan employers, salaried workers and self-employed workers are obligated to pay premiums in accordance with the plan.

The Ministry of Employment and Social Solidarity shows that the historical materialization of the Québec Parental Insurance Plan (QPIP) began in 1996 when community and social groups participated in the *Sommet sur l'économie et l'emploi*. It was at this event that 'Québec employers came out in favour of implementing a Québec parental insurance plan,' a provincial program for maternity and parental leave (Ministry of Employment, b). This plan, it was claimed, would effectively replace the maternity and parental leave benefits made available to Canadians under the federally legislated *Employment Insurance Act* (EIA). It would also improve upon federal legislation by extending benefits to more women and making remuneration for new parents significantly higher than that offered under the federal *Employment Insurance Act*.

The Québec Parental Insurance Plan is an important case to study because the debates surrounding its legislation and implementation highlighted concerns with national identity and nation-building projects. These debates were made more visible because the legitimacy of the bill's legislation was challenged by the Canadian federal government. Thus, the QPIP is also important because it showcased the role of federalism and the Canadian Constitution in the legislation of social policy in the Province of Québec. The implementation of the bill was halted by Canadian federal government representatives because, they argued, the nature of the policy (a parental insurance plan meant to replace maternity and parental leave benefits already available to Canadians under the federally legislated *Employment Insurance Act* [EIA]), encroached upon federal legislation. This meant that the legislation and

implementation of the QPIP became a judicial issue to be meted out in the Québec Appellate Court and then the Supreme Court of Canada.

This kind of political manoeuvring allows the researcher to analyze the enactment of the Québec Parental Insurance Plan in the context of federal constitutional debates and the relationships that developed between different provincial political party representatives and Canadian federal government representatives. The evolution of the bill from 1996 onward also provides the researcher with many legislative, judicial and political contexts in which to analyze the parental leave plan. Thus, it is possible to determine why and how legislators focused on certain aspects of the parental leave plan and its purposes at different times of the negotiations between provincial and federal branches of government. It is also possible to observe that the Québec Parental Insurance Plan was part of an overall political agenda to reform family policy in the province of Québec and that it was part of a 'package' of family policies that interacted with other policy agendas such as the reduction of poverty in the province and the provision of equal opportunities to women and children.

Because Québec's sovereignty over the legislation and implementation of the plan was challenged at an early stage of the bill's legislation, it is possible to use this case to examine the extent to which federal-provincial relationships made questions of population numbers and fertility in the province a more explicit part of the policy agenda. Analyzing the QPIP in the context of the other white paper policies also makes it possible to assess to what extent the concept of population does or does not play a role in nation-building objectives in the province.

What Kind of sources were used to Observe Possible Relationships between Population Policy, Nationalism and Nation-Building in Québec?

Like Béland and Babich's (2009) study of the legislation and implementation of the Canada/Québec Pension Plans, this study also relies primarily on documentary sources. This thesis relies upon historical background for information on the roles of Canadian institutions, such as the Supreme Court of Canada, in jurisdictional debates, as well as sources documenting the major debates and events that led to the enactment of the QPIP. Such sources include National Assembly debates and press conferences. Like Béland and Babich's work, moreover, this thesis analyzes the relationship between ideas that were expressed publicly and a specific social policy. For these reasons and reasons explained in more detail above, the sources that were collected and analyzed in order to observe the link

between population policy, nationalism and nation-building in the context of Québec and the Québec Parental Insurance Plan were limited to sources available on the public record.

The case study methodology employs multi-method forms of data collection (Ambert et al., 1995; Creswell, 1998; Corbin and Strauss, 1990; Eisenhardt, 1989). The data that were collected and analyzed for this thesis include legislative and judicial materials such as bills and court transcripts as well as National Assembly transcripts and press conferences. In order to set certain debates in their historical and political contexts, historical speeches, press conferences and previously legislated materials as well as secondary empirical and analytical data were relied upon to draw connections between contemporary and historical socio-political contexts.

One of the major choices that was made regarding the collection of data concerned the nature of the material that would best serve the purposes of making clear observations of the relationship between the population policy being examined and public expressions of nationalism and nation-building. Since this thesis depends upon the investigation of whether or not the concepts of population and demography play an important role in the public expressions of nationalism and nation-building in Québec, it was important to examine the ways in which legislators as well as judicial and social representatives addressed the putative members of the Québécois nation. For this reason as well as others, the data that was collected for this thesis is limited to that which was available on the public record. This decision allowed the researcher to avoid having to discriminate between the 'actual' and 'covert' motivations of any social or political representative. Furthermore, it was decided that interviews with the key social and political actors involved in the legislation of Bill 140 would unlikely prove to be useful resources, given that it would prove very difficult, if not impossible, to develop criteria that might be used to assess the veracity of respondents' 'off the record' accounts.

In terms of accessibility, much of what was said about the parental leave plan at the pre-legislative and legislative stages of Bill 140 was available on the public record. These public records include: drafts of legislation, final copies of bills as they were passed in the Québec National Assembly, press conferences made by public officials, National Assembly transcripts, and memoranda drafted for presentation to the National Assembly by social organizations and community delegates. The data collected also included constitutional

amendments, administrative agreements, Acts of Federal Parliament and Supreme Court as well as Appellate Court decisions.

Before considering 'how' social and political actors projected a certain view or understanding of Bill 140 to the people of Québec it was necessary to give an account of the key events in the original formulation and development of the bill to figure out who and what was involved in its initiation, its drafting and its implementation. Therefore, it was necessary to go straight to the primary sources and to consult both Bill 140 *An Act Respecting Parental Insurance* and Bill 108 *An act to amend the Act Respecting Parental Insurance* as well as other legislative documents pertaining to the bill such as the *Employment Insurance Act* and all of its amendments and regulations.[3] In addition to these data, other archival materials pertaining to the judicial debates that took place over the constitutional legitimacy of the parental leave plan were also accessed. This method of research can be described as *mediate* or indirect. By accessing it, behaviour can only be inferred from its material traces in the form of legislation which occurred at a time other than the present (Scott, 2006: 5). However, because the publication of such material for the public is regulated by governmental bodies, both the authenticity and the credibility of the texts under scrutiny are strong.

Memoranda

In order to measure social actors' responses to the legislation of the Québec Parental Insurance Plan, the memoranda that organizations' members presented to the National Assembly during the legislative processes of both Bill 140 and Bill 108 were collected and analyzed. The memoranda that these interest groups presented to political actors in the National Assembly served the purpose of demonstrating how the QPIP interacted with other political agendas set not only by politicians but also by various interest groups such as labour and feminist organizations.

In the case of the QPIP it was primarily trade union organizations, women's groups and family organizations who presented memoranda to the Québec National Assembly in an attempt to achieve improved social programming for the particular interest groups that they represented. Because each group had something slightly different to present to the National Assembly when it came to legislating policy in the *best* interest of those for whom it lobbied,

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[3] Although the QPIP was re-legislated by the PLQ for implementation in Québécois society in 2005 as Bill 108, the QPIP is commonly referred to by the bill number under which it was first introduced to the National Assembly in 2000 –that is, Bill 140.

each group's representatives had different expectations for the bill. The ways in which political actors responded to those expectations differed in the context of the National Assembly from the ways in which political actors responded to the general public in the context of public press conferences. Therefore, examining these memoranda gave the researcher the opportunity to compare social and political actors' intentions for the parental leave policy and highlighted potential contradictions in political actors' public representations of the bill. According to the PQ and the PLQ, the goals of Bill 140 were to rectify the demographic challenge facing Quebecers. However, according to the *Fédération des parents adoptants du Québec*, Bill 140 was a means of facilitating the adoption of a child and making more time for adoptive parents to spend with their newly adopted child. Therefore, the ways in which political party representatives responded to social actors' memoranda as well as to each other, were useful data to analyze in order to investigate which social and political actors may or may not have appealed to 'pro-natalist' or other ideologies relating to the reproduction of the Québécois population.

In order to collect data relevant to this analysis, not only were the presentations made by various social and political organizations to the National Assembly during the legislation of Bills 140 and 108 scrutinized but so too were the memoranda circulated within the organizations between the years of 1996-2006. These were attained either from public databases on the internet or from public databases within the organizations' head offices in the province of Québec. Personal insights from the members of social organizations were rejected because this research focused on analyzing the ways in which 'population policy' and its interaction with other policy agendas was debated publicly.

National Assembly Debates

An analysis of the National Assembly debates that occurred between the dates of 6 June 2000 and 15 June 2005 –a timeframe that represents both the Parti Québécois and Parti Libérale du Québec's legislations of Bill 140 and Bill 108– was essential to understanding how the Parti Québécois and the Parti Libérale du Québec interacted with each other and with other social actors in the province on the subject of the QPIP. The importance of this analysis stemmed from the observation that the concepts of population and demography become more visible in national contexts such as parliaments, or legislative assemblies where social and political figures express national concerns publicly. The National Assembly debates were also important when it came to conceptualizing both theoretical and empirical arguments. They often clarified in more simple jargon what was going on at the

legislative and judicial level of the policy and they made more clear what each political party's representatives' views were on issues pertaining to the parental leave plan. The debates were crucial to mapping the kinds of conceptually-based arguments –such as: 'what is a population policy?' and 'how does population policy interact with national identity and nation-building projects'– which form the bulk of the analytical material that is presented in the following substantive chapters.

Press Conferences

Press conferences were also useful data for analyzing how politicians represented their legislative projects to the public. During the conferences, which were typically archived by the National Assembly of Québec, political leaders were encouraged to answer journalists' questions and they typically took quite partisan stances in their discussions of both the parental leave plan and the other white paper policies. Analyzing these conferences was also a useful way of gauging how political rhetoric was spun in the media without having to analyze media reports in depth. All other forms of media responses to the legislation and implementation of Bill 140 were rejected or ignored. Offering an account of major media outlets' responses to the legislation and implementation of the Québec Parental Insurance Plan was beyond the scope of this project. However, by triangulating the multiple forms of data listed above, the researcher was able to provide 'stronger substantiation of constructs and hypotheses' (Eisenhardt, 1989: 538).

How the Evidence was Analyzed

In the context of this research project analytical techniques such as the categorization of information by theme were employed in order to interpret meaning in the documentary evidence that was collected. These categorizations of data according to themes were later used as evidence of particular empirical and theoretical concepts. In case study research it is claimed that data collection and data analysis most often occur simultaneously (Ambert et al., 1995: 884; Corbin and Strauss, 1990: 6; Creswell, 1998: 57; Eisenhardt, 1989: 538; Gerring, 2004: 347). Since the beginning of this research project data analysis has occurred in conjunction with data collection. Certain themes, categories of information, and theoretical constructs emerged after a first reading of the transcripts of the National Assembly debates as well as other documentary sources such as press conferences and memoranda. Upon a second reading of all of the documentary sources that were collected,

relevant data were coded according to an 'open coding' process (Corbin and Strauss, 1990: 13; Creswell, 1998: 57).

During this open coding process, evidence which suggested that Bill 140 could be interpreted as a 'population policy' was used to discriminate between Bill 140 and other social policies administered around the same time as the parental leave scheme. Thus, analyzing Bill 140 in the context of other white paper policies was crucial to developing thematic, categorical and theoretical constructs which all suggested that accounts of Bill 140 on the public record could be interpreted as attempts to legislate a 'population policy' and, in some cases, as 'pro-natalist' policy. Certain themes recurred during the open coding process, which were later used as the bases for the substantive chapters of this thesis. Those themes included, first of all, the concept of federal-provincial relations, which was significantly less relevant during the legislative processes for the other white paper policies because jurisdictional battles over Québec's legislative autonomy did not take place in those particular legislative contexts.

The second thematic category covered the concept of family politics and the historical relevance of large Québécois families to the concept of 'nation-building' and 'linguistic purity.' The third category contained material relevant to the concept of population numbers and the importance of reproducing population numbers within the 'national' boundaries of Québec rather than maintaining population numbers by encouraging immigration. In order to formulate integrated conceptual analyses of all three of these categories the process of axial coding was conducted following the open coding process in which the main categories that were identified through open coding were 'related to their sub-categories, and the relationships tested against data' (Corbin and Strauss, 1990: 13). In order to show that these thematic categories were particular to Bill 140, their content was analyzed in the context of other social policies administered during the same historical period as the parental leave plan.

Conclusion

In this chapter the reason for adopting a research design based on the accumulation of observations and the suggestion of analyses based on those observations was justified. It was stated that because research in this area is under-developed, it is best to approach the topic of population policy, nationalism and nation-building with general observations and preliminary analyses of observations made in a specific sub-state national context. Although

the project is not intended to generate new theories that can be generalizable, it is intended to establish some observational and analytical guidelines that may be useful to adhere to in future research projects.

This chapter has also justified the methodological use of case study research, describing for the reader the methodological contexts of Bill 140 *An Act Respecting Parental Insurance*. Furthermore, reasons were given for the choice of Québec and Bill 140 as an exemplary case study of the relationship between population policy and nation-building objectives in a hitherto under-developed field of research. Arguments were made concerning the usefulness of the Canadian and Québécois contexts to the exploration of population, sub-state nationalism and nation-building.

Finally, there was a discussion of source materials and a justification of the analysis of phenomena relating to Bill 140 in the context of other contemporary social policy projects. The argument was made that in the context of the Parti Québécois' 1996 white paper policies, it can more clearly be observed that there is a relationship between social policy and 'nation-building' objectives in the province. However, comparatively, an analysis of Bill 140 tends to suggest that beyond this relationship there is also a more understated relationship that exists between the concepts of population, demography and nation-building in the province. This relationship, moreover, is best observed by collecting and analyzing data that are available on the public record because the ways in which the concepts of 'population' and 'nation-building' are debated publicly reveals the extent to which the relationship between the concepts tends to be reproduced ideologically in ways that have, in the past, been taken for granted.

Chapter 3: Canadian Constitutional Contexts, Social Policy and 'Nation-Building' in Canada and Québec: How Federal-Provincial Relations affected the Québec Parental Insurance Plan

The following chapter describes the historical and political contexts in both Canada and Québec that are relevant to the legislation of the Québec Parental Insurance Plan. These historical and political contexts include the genesis of Canadian constitutional politics, namely the division of powers included in the *British North America Act, 1867*; the nineteenth-century background of population policy and 'pro-natalist' thought in Québec; the evolution of the welfare state and provincial sovereignty over social programming; the patriation of the constitution with the inclusion of a charter of rights in the *Canada Act, 1982*, and the proliferation of 'rights' discourse in Canada; the evolution of Canadian and Québécois demographic trends; and, the rise of sub-state 'Québécois' nationalism and contemporary sub-state national political parties in the province of Québec in the twentieth century.

The empirical contexts listed above will enable the reader to follow more closely the arguments that will be made in succeeding chapters with regard to the relationship between population policy and sub-state nationalism in the province of Québec in the context of the legislation and implementation of the Québec Parental Insurance Plan (QPIP). An understanding of the Canadian Constitution, especially the division of sovereign powers between federal and provinical governments therein, is necessary to make sense of many of the public debates that took place in the context of the legislation of Bill 140. Therefore, careful attention is paid to the evolution of the constitution and its role in federal-provincial relations, particularly with respect to its role in safeguarding Québec's unique cultural, linguistic and religious difference from the rest of Canada.

The *British North America Act, 1867* is Canada's original written constitution; it was an act of British Parliament and, historically, could only be changed by the British legislature (Johnston, 2001: 284). In 1982 the *British North America Act* was renamed the *Constitution Act, 1867* after Canadian parliamentary attempts to patriate all of its legislative and constitutional powers became successful. The newly patriated constitution was called the *Canada Act, 1982*, which included the existing *British North America Acts* (re-titled the *Constitution Acts*), as well as the *Canadian Charter of Rights and Freedoms*. The following sections give more details concerning the social and political changes that led to the transformations of the constitution and the effects that these changes had on public representations of the Québec Parental Insurance Plan.

Why Federalism? The Canadian Federal State, the Constitution and Socio-Political Change Since 1867

The Canadian federal system is based on a division of powers between the Canadian federal government and several regional or sub-state governments with specific autonomous or 'sovereign' legislative, administrative and fiscal powers. These sub-state regions with specific sovereign powers upon which the Canadian federal government cannot encroach, are known as provinces. Canada has ten provinces (Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan). It also has three territories (Northwest Territories, Nunavut and Yukon); however, these territories are not endowed with the same constitutional sovereignty as the provinces. While the provinces represent certain 'regions' that have come to adopt different local cultural and economic identities, most of them have not, historically, represented any one specific 'ethnic,' 'religious,' or 'linguistic' identity. The exception to this general observation is Québec. The unique collective identity of the majority of the members of the province of Québec has evolved in tandem with social, political, economic and cultural change within the Canadian federal state as has the manifestation of its status as a sub-state nation.

The Canadian federal system is arguably 'one of the world's most decentralized federations' (Johnston, 2001: 263). Because of that, Canadian provinces have been able to forge very strong political and economic identities based on the regions that their members occupy within the constraints of the Canadian federal state. The nature of federalism in Canada has, moreover, allowed strong provincially-based political and economic identities to develop and, in some cases, to flourish without (for the most part) threatening the integrity of the Canadian federal state. So far federal Canada has been kept intact even though representatives of the Province of Québec have attempted to challenge its integrity by holding referenda on sovereignty.

Sovereigntist movements in Québec headed primarily by the sovereigntist political party, the Parti Québécois, culminated in the province-wide administration of referenda on 'sovereignty-association' and 'sovereignty,' in 1980 and 1995, respectively. These sovereignty movements were, in both cases, promulgated primarily by the representatives of the sovereigntist political party, the Parti Québécois, in an attempt to secure not only 'national' but 'state' sovereignty for Québec. That is, sovereigntists wanted to secure not

only a unique 'national' social and cultural identity for Quebecers within a unified Canadian state, but to establish a 'sovereign' Québécois 'nation-state' outside of the constraints of the Canadian federal system. (Both the formation of the Parti Québécois and the sovereignty movement in Québec will be discussed below in greater detail).

The rise of political nationalism in Québec has had a long history that can be traced back to colonialism on the North American continent. Historically, Canada was founded predominantly by two European 'peoples' and the indigenous Aboriginals who inhabited the North American territory before the arrival of European colonists. After French explorer Samuel de Champlain landed in New France in the early seventeenth century, ensuring the continuous occupation of the territory by French-speaking people, his discovery marked the beginning of permanent French settlement in Canada (Gillmor and Turgeon, 2000: 61). However, French rule was brought to an end in 1759 with the British siege that resulted in 'The Conquest' of French colonists. France's relinquishment of territories in Canada as well as other parts of North America and the Caribbean were formalized in the Treaty of Paris, 1763 (Francis and Smith, 1998). Furthermore, to the south of New France it was mainly British colonists who occupied the territories that would eventually become the United States of America. Because British numbers were far greater in North America than French numbers and because Britain maintained a far greater interest in its colonies throughout the seventeenth and eighteenth centuries than did France, battles for the territories that French and British colonists came to occupy soon led to the decline of French colonial power in North America (Francis and Smith, 1998).

The nature of the battles between French and British colonists changed after the American Revolution during the last half of the eighteenth century. After the American Declaration of Independence, British loyalists fled the United States to 'Upper Canada,' the English-speaking colony at the head of the Saint-Lawrence River. (Upper Canada was the territory that would later become Canada West and then the Province of Ontario. It was, and still is, predominantly English-speaking.) This migration of thousands of loyalists meant that the population of English speakers in Upper Canada began growing faster than the population of French-speaking inhabitants in Lower Canada to which the French state was no longer interested in sending colonists. (Lower Canada was the territory that would later become Canada East and then the Province of Québec. It was, and still is, predominantly French-speaking.)

Until 1850 Lower Canada (Québec), had a much larger population than that of Upper Canada (Ontario). Upon the colonies' unification in 1841, (which made them Canada East and Canada West), each was given equal political representation. This angered the inhabitants of Lower Canada because they believed that it gave the English greater political power than they deserved. However, once immigration to the Canadas from the United States took place and changed the balance of population numbers in French and English-speaking Canada, political grievances turned to religious and linguistic ones (Gillmor and Turgeon, 2000: 260).

Although legislative attempts to unify the two culturally, linguistically and religiously different 'populations' in Canada had taken place before the second half of the nineteenth century, it was not until 1867 that the confederation of Canada took place. The *British North America Act, 1867*, or, the BNA Act, as it is often referred to, legally marked the creation of Canada on July 1, 1867 as a sovereign confederated state. Canadian confederation was the result of several colonial administrative and historical processes that represented attempts to unify the once distinct colonial territories of both France and Great Britain. It was informed by many economic, geopolitical, linguistic and cultural factors (LaSelva; 1996; Moore, 1997; Russell, 2004; Silver, 1993; Waite, 1962).

By the mid-nineteenth century, as the English-speaking population in the territory that was to become Ontario began to outgrow that of the French-speaking population in the territory that was to become Québec, the prospects of representation by population in a confederate state did not interest the representatives of the French-speaking population (LaSelva, 1996; Silver, 1993). Because French-speaking population numbers were declining in proportion to English-speaking ones, it was feared that political representation that was proportionate to population numbers would not adequately represent the interests of French-speakers in Canada. English Canada, in fact, had become 'increasingly threatening to French Canadians, who, though still a majority in the eastern section of the province, were now just a third of the Canadian population' (Russell, 2004: 17). Thus, provisions to accommodate the residents of minority regions such as French-speaking Canada were demanded before confederation took place.

At the time of confederation both English-speaking and French-speaking representatives made different cases for the confederation of 'the Canadas,' ensuring that while the separate regions of English Canada, French Canada and the Maritime Provinces would be united by one central government, that there should also be provisions in the constitution devolving

certain legislative powers to what would become the provinces. This led to the inclusion of a clear division of powers between federal and provincial levels of government in *The British North America Act, 1867*, the act of British Parliament which marked the origin of the Canadian state. This division of powers, as we will see, not only served to accommodate linguistic, religious and cultural differences in the nineteenth century but continues, presently, to play an important role in the ways that provinces differentiate themselves from one another and the ways that they distance themselves from federal political identities (LaSelva, 1996; Monahan, 2006).

The first real moves toward confederation began in 1864 when the representatives of Canada East and Canada West agreed to participate in a coalition government with their political opponents. This coalition government demonstrated that beyond social, cultural and political differences, representatives of both English- and French-speaking groups had a common interest in federating the state. John A. Macdonald's Conservatives, representing Canada West, allied with George-Étienne Cartier's *Bleus*, representing Canada East. They were joined by George Brown's Reformers who were gaining popularity in Canada West to form a Great Coalition 'solely for the purpose of achieving a constitutional solution […]' (Russell, 2004: 18). Debates over federalism arose. On the one hand English Canadians opposed delegating powers to the provinces because it encouraged regional diversity in the face of one unitary state. John A. MacDonald, representative of Canada West and future Canadian Prime Minister, felt particularly strongly about a strong central government (Gillmor and Turgeon, 2000: 269). Canada East representative, George-Étienne Cartier, felt that forming a federation with English Canada would allow the French-speaking province to be successful economically, a chance that it might otherwise miss since all possible trading partners in its vicinity were controlled by English-speaking authorities. However, Cartier also believed that a division of powers would guarantee French control over language, law and French-Canadian customs (Gillmor and Turgeon, 2000: 271).

At that point in Canadian history not many English-speaking Conservatives were concerned with preserving the French language or regional and distinct identities. On the other hand, not many French-speaking representatives were interested in a federation because they thought that it would bring about the extinction of their language and what was historically believed to be a 'race' (LaSelva, 1996; Russell, 2004; Silver, 1993).[4] As Peter H. Russell

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[4] Throughout the nineteenth century and well into the twentieth century, including the Duplessis years (1936-1939, 1944-1959) in Québec, French-Canadians, or, the inhabitants of the French-speaking territory in Canada were regarded as a 'race.' Although the term still appears in some political and

suggests, in the Canadian context the 'acceptance of a federal solution was the only possible basis on which leaders from the two sections of Canada could work together on a constitutional accord' (2004: 19).

Thus, a scheme to unite not only Canada East and Canada West but also the Maritime Provinces of New Brunswick, Prince Edward Island and Nova Scotia was developed by the members of a coalition cabinet (Russell, 2004; Silver, 1993; Waite, 1962). The representatives of the Maritime Provinces once pursued the concept of a Maritime Union; however, this idea was marginalized by the greater focus on the financial, political and legal benefits of a union of all British North American colonies (Gillmor and Turgeon, 2000: 268). The Charlottetown Conference of September 1864 was a meeting of appointed delegates where various plans for federal union were debated. While some of the maritime regions' representatives disagreed on many of the principles of federal unification, establishing a constitution was still made a priority. Representatives from all regions set a date for another meeting in Québec for October. The Québec Conference, as this meeting was known, was one at which delegates from each of Canada East and Canada West as well as the Maritime Provinces worked out the details of a Canadian Constitution (Moore, 1997; Russell, 2004; Silver, 1993; Waite, 1962).

These details took the form of seventy-two resolutions, which would later form the basis of the *British North America Act, 1867* (Russell, 2004: 23). Working out a federated structure was difficult given that the United States of America, a federated state to the south of the Canadas, was in the middle of a civil war. This led constitution-makers to believe that too strong a centralized federation might lead to regional disagreements and, potentially, armed conflict. The provinces were, therefore, made sovereign over certain aspects of the constitution, meaning that the legislative and executive powers granted exclusively to them could not be over-stepped by the federal governing structure. The more important federal powers were those such as defence, military law, criminal law, trade and commerce, banking and interprovincial transportation. The legislative powers granted to the provinces were not however, insignificant. Those powers included '"Property and Civil Rights in the Province," a phrase meant to cover the components of Québec's civil law (most of the private,

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cultural contexts it is not commonly used by public officials to refer to the inhabitants or the 'population' of Québec. Beauchemin (2004) maintains that the term fell out of usage by the 1960s when the concepts of a Québécois culture and of a Québécois nationalist society took precedence over the former concept of a 'French-Canadian race' (28). The use of the term 'races' to refer to what would now be considered 'nations' was also common in both British and European discourses up until the middle of the twentieth century (Mann, 1995: 55).

commercial, and family law), as well as education, hospitals, and other social welfare activities' (Russell, 2004: 24).

The constitution drafted in the nineteenth century did not include any formal provisions for individual or collective rights. The Canadian Constitution and parliamentary system, much like the British system of parliamentary government, was based on a strong government that controlled both executive and legislative branches of a parliamentary democracy. This was distinct from the American system which drew its inspiration from Locke and the separation of executive and legislative functions. The American system was based on the distrust of government that remains at the heart of American political culture today. It began with the liberal concept of popular sovereignty and individual rights –especially with regard to property– rather than responsible government (Johnston, 2000: 204-5). The Canadian Charter of Rights and Freedoms was not included in the Canadian Constitution until 1982 when the constitution was patriated by then Prime Minister Pierre Trudeau in what was to become known as the *Canada Act, 1982*. (The Charter as well as its intended effects will be discussed further below.)

Although the Canadian Constitution lacked any clear proclamation of individual or collective rights, there were basic provisions inscribed in *The British North America Act, 1867* which political delegates assumed would protect the interests of two culturally distinct communities: the English and the French (LaSelva, 1996; Ouellet, 2002; Silver, 1993). First, as Peter H. Russell shows:

> [T]he English were assured of the right to use their language in the legislative and judicial institutions of Québec, where they would be a minority, and the French were given a reciprocal right to use their language in the federal legislature and courts. Second, the denominational schools of the Protestant minority in Québec and the Catholic minority in Ontario would continue to function on the basis already provided for in law. These two provisions for minority rights were not the only manifestations of cultural dualism in the new Constitution. Another dimension of dualism was the differential treatment of Québec. Québec, with its distinctive civil law, was exempt from a clause that envisaged the common law provinces eventually permitting the federal Parliament to take over their jurisdiction over property and civil rights. (2004: 26)

This is important because the evolution of property rights and collective civil rights played an important role in many of the public debates that later ensued over Québec's jurisdictional status in relation to maternity and parental leave. The Québec Parental Insurance Plan came into being because it was argued that parental leave –previously legislated in accordance with the federal *Employment Insurance Act*– was essentially a matter of a local nature as

well as a matter of property and civil rights and that, constitutionally, it should be the legislative prerogative of the Québec provincial government and not the Canadian federal government. Thus, the differential treatment of Québec, as it was enacted in the Canadian Constitution in 1867, provided the basis for the jurisdictional battles that ensued between federal and provincial representatives over the matter of maternity and parental leave legislation that is the subject of this thesis. These jurisdictional battles, furthermore, provided the context within which the concepts of population, demography, nation-building and national identity became much more visible than they would otherwise have been during the routine legislation of social policy in the National Assembly of Québec.

As was stated above, the constitutional division of powers to which property and civil rights is subject dates back to 1867. Since the original enactment of the Canadian Constitution in 1867, however, the extent to which provincial legislatures have encroached upon the exclusive powers of the federal parliament and also, the extent to which the federal parliament has encroached upon the exclusive powers of the provincial legislatures has dramatically changed the relationships of both federal and provincial governments to the constitution and to the judicial review of the constitution by the Supreme Court of Canada (Bateman et al., 2008; Meekison et al., 2004). These changes have reflected social and political changes in the structure of the state and the state's ability to provide services to its citizens.

As Mann has argued, the autonomous powers of states, especially with regard to domestic functions, were, prior to the twentieth century, generally limited and overshadowed by foreign policy and warfare (1988: 22). However, as the relationships between states and societies have evolved and have led to the expansive growth in states' administrations of social welfare programs, so too have the relationships between states, sub-state units and the administration of policy. As a result, changes to the Canadian Constitution and the way that Canadians and Canadian organizations interpret the role of the constitution have also been profoundly affected by political change in Québec and the province's own interpretation of its constitutional status (Monahan, 2006; Saywell, 2002; Smiley, 1987).

In terms of the separation of powers between federal and provincial governments, Linteau et al. argue that 'those powers exclusively accorded to the provinces are those that concern the social and cultural organization of diverse communities: property and civil rights, health and social security, public grounds, the municipalities and public works, and the administration of justice and education' (1979: 254-5). What is particularly interesting in Linteau et al.'s

interpretation of the Canadian Constitution as a historical piece of legislation is their remark that 'during an era when governments scarcely intervened in these sectors of society, the powers accorded to the provinces by Article 92 were assumed to be more or less secondary' (1979: 255). However, as the state evolved, the powers accorded to the provinces in the *BNA Act, 1867*, have become essential to economic growth, the legislation of diverse social welfare policies and the development of regional identity in various Canadian provinces.

The evolution of the welfare state in Canada has meant that the constitutional powers exclusively accorded to the provinces such as the legislation of matters relating to health care, education and social welfare have taken on greater meaning in the everyday lives of individuals. These powers have, arguably, contributed to sub-state 'nation-building' practices in Québec, helping sub-state 'national' political leaders and elites to define social policy agendas in terms of Québec's 'national' progress and public pride (Béland and Lecours, 2005). Although the relationship between social policy, nation-building and nationalism is represented by a growing literature in sociology, social policy and politics, the effects of this relationship on other concepts such as population and demography have tended to be overlooked and are currently ripe for further exploration in the context of the Canadian federal state as well as its sub-state provinces (Béland and Lecours, 2005, 2008; McEwen, 2002, 2006).

This is especially true of Québec, it will be argued hereunder, because Québec is a sub-state nation with a certain degree of legislative sovereignty over social policy legislation that can be regarded as distinct from the legislative sovereignty of federal Canada. This is also true because Québec has had a long and contentious history of various legislative attempts to control its own population numbers. These policies have changed with both the evolution of the Canadian state and the role that 'nationalism' has played in the province. Although cases of population policies are numerous throughout Québec's history, very little analytical material ties historical examples to contemporary relationships between population, nationalism and sub-state nation-building projects in the province.

Demography, Society, Population Policy and Québec in the Nineteenth Century

One of the most interesting and under-researched ways in which Québécois leaders have represented the relationship between the province's unique sub-state national identity and the legislation of social policy is through the administration of population policies. Although the

nature of these policies has changed radically with the growth of the welfare state in the province in the 1960s, these policies had origins in the nineteenth century and, arguably, even before the nineteenth century. This history of population policies whereby the French-speaking inhabitants of the territory that would become known as Québec were encouraged by political and religious leaders to reproduce their own population, can be shown to have been influenced by the union of French and British colonies. Fears of population decline among French-speaking people were exacerbated by the prospects of confederation and political representation in a centralized government based on provinces' population numbers.

In seventeenth-century New France, (which became Lower Canada in 1774 and the province of Québec in 1867 with the passing of the *British North America Act*), life was extremely difficult for the early settlers and 'Women, being in short supply, were not restricted to domestic roles because the survival of the colony depended on the labours of everyone, irrespective of gender or social position' (Krull, 1996: 371). According to Krull, 'New France offered the women who were willing to immigrate a chance to break from the traditional roles expected of them in France and, at the same time, the chance to play a vital role in the establishment of the colony' (1996: 372). However, because men outnumbered women, 'Between 1663 and 1673, the Crown sent almost 800 girls to the colony for the sole purpose of becoming wives. These girls were known as the *filles du roi* or "the King's Daughters" because their transport and dowry were supplied by the king' (Krull, 1996: 372).

Thus, the *filles du roi* were sent out from the orphanages of Paris with a dowry to marry settlers and to help increase the numbers of babies being born in the primarily French-speaking colony (Ostertag, 2005: 9; Trofimenkoff, 1983: 6). Life on the farms required the work of large families and the success of a farm depended on having many children. For these reasons financial rewards were given as incentives to females who married under the age of sixteen (Krull, 1996: 372, 373).

From the beginning of colonial settlement in the territory that would become Québec population size was viewed as central to the survival of French-Canadian culture; the high rate of population growth in the eighteenth century could be attributed to the very high rate of child bearing in the colony as opposed to dependence upon immigration (Krull, 1996: 371; Ostertag, 2005: 9). As Krull notes, 'the fertility rate in New France was one of the highest in the world, with birth rates ranging from 50 to 65 births per 1000 population' (1996: 373). Moreover, it has been estimated 'that women in the colony who married at 15

years of age and who lived until the end of their reproductive years had between 12 and 13 children' (Krull, 1996: 373).

In eighteenth-century Québec emigration from France amounted only to 10,000 persons for the total period of the French Régime which lasted for over 150 years. That is an average of 66 persons a year. As a result of the lack of an effective emigration policy, there were, in 1760, only 65,000 people in New France as opposed to 1.5 million in New England (Henripin, 1994: 26). The representatives in power in France who were less interested in sending more people to work in the French colonies, tried to make up for the deficiency of immigration into Canada by encouraging the development of the established population. This was done by supporting early marriages (Ostertag, 2005: 11). As Henripin shows, high fertility rates became not only necessary government policies but 'pro-natalism' became socially ubiquitous and individuals internalized the value of large population numbers (1994: 26, 27).

The concepts of fertility and 'national' linguistic identity in colonial Québec had roots in Catholicism. However, Catholicism in Québec during the 1840s was unorganized, un-motivating and incapable of resisting the assimilation with Anglo-Protestants intended by the *Act of Union* which was intended to unite Upper and Lower Canada, making what would become Ontario, Canada West, and what would become Québec, Canada East. However, the Catholic Church grew in strength with the defeat of the Patriotes, who represented its biggest challenge to power in the French-speaking society. The outcome of this defeat was for the Church to imbue popular Catholicism with conservative philosophy in order to preserve Québécois society as distinct and strong in the face of assimilation with an Anglo-Protestant majority in Ontario (Trofimenkoff, 1975, 1983).

French Canadian women, Trofimenkoff shows, displayed even more organizational enthusiasm for the growing conservative Catholic schemes which, they believed, would preserve a uniquely French-Canadian culture. They created four new religious orders within a decade: *Soeurs de Charité de la Providence, Soeurs des Saints Noms de Jésus et Marie, Soeurs de la Miséricorde*, and *Soeurs de Sainte Anne*. For women in Québec the religious orders offered an alternative to the one occupation by which most women earned their living: that of marriage and childbearing (Trofimenkoff, 1983: 88-9). These religious organizations, while conservative and limiting for women, proved to be an excellent means of mobilizing women's groups compared to France's late nineteenth- and early twentieth-century socio-

religious women's organizations that were continually marred by the intrusions of France's Republican state (Ostertag, 2005: 24-5).

As France experimented with yet another revolution in 1848, another republic, then an empire once again in 1852 only to return to a republic in 1870, French-Canadian culture was becoming less and less Republican; French-Canadian citizens were identified as belonging to a particular race and religion and not of universal sameness (Trofimenkoff, 1983: 101). A new development in the nineteenth century was ultramontanism. Like all ideologies, ultramontanism was a mix of social, cultural, and intellectual forces. It derived its name from looking 'beyond the mountains' in France and over the Alps to the papal presence in Rome (Linteau et al., 1979). Ultramontanism represented an intellectual shift away from Catholic Enlightenment to the restoration of conservative concepts such as papal infallibility (Schatz, 1996:147-8). Some French citizens, having found that, as a result of the Revolution, all they believed to be true, like social hierarchy and working class deference, was being strongly criticized by revolutionaries, mounted a response in the form of ultra-Catholic dogmatism that denied any place in the intellectual, social, or political arenas for beliefs other than their own (Trofimenkoff, 1983: 116).

According to Trofimenkoff, while European politics bred ultramontanism, French-Canadian fears imported it to Québec. Throughout the nineteenth century intellectual debates and popular uprisings reiterated the great division between the French Revolution and the *ancient régime*: the division between liberty and authority (Trofimenkoff, 1983: 117). This ideological difference between liberty and authority had great repercussions for women in Québec as well as other minorities involved in the pro-natalist debate because the Republican ideals of universal rights were being increasingly dismissed (Ostertag, 2005: 25-6).

With the continual rise of revolutionary and Republican ideology in France, some French Canadian elites in Québec –mainly among the clergy– felt threatened by the liberal concepts of the 'other' and 'the outsider'; the rise in French-Canadian nationalism at the end of the nineteenth century allowed these individuals to spot the source of the threat to French-Canadian identity in the 'outsider,' that is, he or she who was not white, French-speaking and Catholic (Trofimenkoff, 1983: 59-60). The nineteenth century in Québec was also a period in which the concept of 'French Canadians' as a distinctive ethnic group developed (Trofimenkoff, 1975: 48, n.10; Gougeon, 1994: 1). 'Formulated by the family through the

transmission of language, tradition, and faith, the nation […] had a quasi-divine status to begin with. But since faith was the most important national ingredient, the nation required the supervision of the church' (Trofimenkoff, 1983: 118-9). Thus, in Québec's schools, the clergy played an important role in the reproduction of French-Canadian custom and identity. The abolition of the ministry of education in 1875 demonstrated the pervasiveness of clerical power. From then until 1964 when a ministry of education was re-established in Québec, the province submitted to clerical authorities on all matters relating to public education (Trofimenkoff, 1983: 121).

At the end of the nineteenth century the population of Québec transformed from a primarily rural population that generated its existence from farming and agriculture to an urban population that sought paid labour and housing in industrial centres such as the city of Montréal. A significant labour supply left Québec's farms throughout the 1850s and 1860s, as individuals left a way of life that could no longer provide for large families. Young people left rural Québec behind heading for the growing urban centres (Trofimenkoff, 1983: 143). With little prospect of job or marriage in a rural setting, young women left their families' farms for the towns and cities. By the 1860s women formed the majority of young people in Montréal and Québec City (Trofimenkoff, 1983: 104). By 1891 it was estimated that 20 per cent of factory workers in the city of Québec as well as 28 per cent of factory workers in the city of Montréal were women (LeClerc and West, 1997: 223). In the 1870s and 1880s, many of the social services –hospitals and charities, daily assistance to the poor, the sick, and the old– were organized by women, religious and secular alike. Such a male-female division of public labour, encouraged by the organization of the Catholic Church and by the concept of separate spheres, increased feminist concerns for women's equality and social rights (Ostertag, 2005: 27; Trofimenkoff, 1983: 143).

When Québec's population became increasingly urban, government officials as well as social, political and religious organizations such as feminist groups, nationalists and clerics became worried about workers' health, contamination, disease and degeneration (Trofimenkoff, 1983: 185). In Québec, nationalism has always played an important role in feminist organization and vice versa (de Sève, 1992: 116; LeClerc and West, 1997: 220). Both feminists and nationalists were tasked with the establishment of better health care facilities for women and the provision of infant care. Social actors working under the banners of feminism and nationalism were equally interested in protecting women and children from the perceived ills of urbanization such as sanitation problems, degeneration in maternal health and increased infant mortality rates (LeClerc and West, 1997: 223-4;

Ostertag, 2005: 27; Trofimenkoff, 1983: 162-3). These, among other social and political problems occupied the members of Québécois society at the turn of the century. This social and political change influenced the provision of organized social services. It also made decreasing population numbers more visible to social and political representatives.

The decrease in population numbers in Québec continued well beyond the nineteenth century. In the early twentieth century, with the realization that federalism was not enough to maintain equality between two national interests (one with a significantly larger population), the *Nationalistes* of Québec put forth arguments in favour of practices that have come to be associated with the doctrine of 'consociationalism' (Kennedy, 2004). The *Nationalistes*' platform represented –among other things– a response to such issues as the increase in non-French-speaking immigrants to Canada. This immigration pattern, they argued, was decreasing the proportion of French speakers in the country (Kenndy, 2004: 510). With the realization that French-speaking population numbers were declining proportionate to English-speaking population numbers, the *Nationalistes* concerned themselves with 'the restriction of French-language rights outside Québec, especially in the field of schooling, and the influx of non-French-speaking immigrants' (Kennedy, 2004: 510). This suggests that responses to demographic change were important among pan-French-Canadian nationalists of the late nineteenth and early twentieth century.

The fear of population decline in Western societies illustrates the relationship that is believed to exist between particular polities' population numbers and their relative political power. The fear of population decline is almost always informed by demographic practices such as censuses, detailing any one jurisdiction's population numbers as well as its characteristics such as race, religion and language spoken. In Canada, 'national' censuses became commonplace after confederation although the recording of population numbers in both British and French colonies predated 1867.

In the 1871 census, the first taken after confederation and the adoption of the Canadian Constitution, 61 per cent of Canada's inhabitants were of British origin and 31 per cent were of French origin (Marmen and Corbeil, 1999: 1). The disparity in these numbers was supposed to be reconciled by a federal parliamentary system with devolved provincial powers whereby regional identities, which are represnted by linguistic, religious and cultural differences could be maintained. However, decentralized federalism has not always met the political needs of all the provinces and, as a result, social and political agitation in the name

of sub-state national autonomy and solidarity has been commonplace in Québec since confederation. One of the ways in which political actors in the province have been successful at advocating sub-state 'nation-building' objectives has been by means of provincially administered social programming. This form of 'nation-building,' moreover, has also been subject to social and political changes in both Canada and Québec since confederation. The division of powers in the *BNA Act, 1867*, which were thought to be secondary proved to be essential in creating a unique Québécois society based on social welfare and intense cultural programming from the 1960s forward. The evolution of both the Canadian and Québécois welfare states as well as ongoing political change in both federal and provincial jurisdictions have, as stated above, cast the Canadian Constitution of 1867 in a new light. Some of the larger social and political contexts in which these changes took place can generally be described and analyzed as follows.

Canadian Federalism and Québec after World War II

Before the twentieth century the functions of Western states were, in most instances, limited to foreign policy and the administration of internal order. By the twentieth century the concept of the welfare state began to develop in many Western societies. After World War II the functions of the welfare state became much more important to the overall functions of the state in modern Western societies. This meant that where states' roles in the provision of public services were once limited, they evolved quickly in the post-war era in order to provide citizens with the protection of welfare-state measures. Such measures included the provision of health care, unemployment subsidies and public education and, in some cases, state-funded economic developments such as publicly owned companies responsible for the provision of hydro-electricity (Mann, 1988). Across Canada Prime Ministers Louis Saint-Laurent (*Liberal*: 1948-1957) and John Diefenbaker (*Conservative*: 1957-1963) were quick to implement welfare-state policies and other citizen-focused pieces of legislation such as the 1960 Bill of Rights. However, in Québec the development of the welfare state came slightly later because of the nature of political leadership in the province.

After the Second World War, political party politics in Québec were dominated by the *Union Nationale* under the leadership of Maurice Duplessis. The Union Nationale was the first political party of the twentieth century to gain electoral favour in Québec that was not perceived as an extension of the federal Conservative or Liberal Party of Canada. The Union Nationale, led by Maurice Duplessis (1936-1939, 1944-1959), was a political party that could be characterized by its virulent anti-communism, its disdain of the labour movements

and its alliance with religious authorities in order to defend the principles of 'order, authority, and traditional values' (Linteau et al., 1989: 135). Duplessis's brand of nationalism was influenced by Lionel Groulx and focused on a Québec-centred nationalism rather than the pan-French-Canadian nationalism of the *Nationalistes* (Kennedy, 2004: 515). Under Duplessis's regime the formation of social organizations that were not religious and nationalist was highly discouraged (Rouillard, 2004: 75). The Union Nationale could also be characterized by its opposition to state intervention in matters relating to citizens' welfare and its conservative religious conceptualization of the role of the state (Lajoie et al., 1986: 8).

Lajoie et al. argue that Maurice Duplessis was a constitutionalist in favour of a literal interpretation of the constitution and a strict adherence to the division of powers held within the constitution (1986: 7, 14). Québec cases were often absent from the Supreme Court of Canada under his reign as long as the devolved powers of the provincial legislature in Québec were not encroached upon. According to Duplessis, as long as French-Canadian identity was recognized as constitutionally 'different,' the Canadian Constitution was rarely regarded as problematic (Lajoie et al., 1986: 10). Because Duplessis's concept of a Québécois society was one ruled by Catholic religious organizations rather than the legislative and administrative branches of the state itself, the leader was seldom interested in having constitutional arguments with federal state representatives. According to Duplessis:

> While Confederation may have been an agreement among four provinces, it was also an agreement between two great races, English and French, whose cultures and traditions are precious and unsurpassed assets to this country. In this Canadian Confederation, the French province is not only a provincial entity, but above all an ethnic entity. Anyone who would reduce the constitutional question to simple material problems commits an error of enormous proportions. (Duplessis, 1952, quoted in Bernier and Lajoie, 1986: 81 n.47)

Because Duplessis's admonishment of state intervention of any form both distanced the province of Québec from any constitutional cases heard by the Supreme Court of Canada and also from any changes made to federal-provincial relations in Canada, the political leader asserted the independence of the French-Canadian community within a relatively seamless constitutional relationship with the rest of Canada.

The leader of the Union National's lack of interest in welfare state policies combined with his focus on French-Canadian culture and ethnicity meant that there was little constitutional conflict during his party's reign. As Lajoie et al. note, 'Duplessis' vision of the nation was

[…] oriented toward survival rather than toward progress, and failed to distinguish between the interests of the Church and those of the nation' (1986: 21). Furthermore, the leader's vision 'left no place for religious, intellectual or political tolerance and was therefore frequently denounced by the liberals and unionists in the opposition, as well as by the writers in *Cité Libre*, who called for greater freedom and democracy' (Lajoie et al., 1986: 21). It should be noted that until 1955 the liberal party in Québec was no different from the federal liberal party and thus, it could not present opposition within the province of Québec to constitutional or federal issues without appearing as though it were institutionally aligned with the federal liberal party of Canada (Lajoie et al., 1986: 15-6). Once the nature of the party changed in 1955 by discontinuing any allegiance to its federal counterpart the Parti Libéral du Québec (PLQ) was much more capable of 'representing' the province as a 'federalist' party with sub-state 'nationalist' motives.

After World War II the percentage of the population of Canada that was represented by individuals of French origin remained at 31 per cent of Canada's total population. This was due to the exceptionally high fertility of the French-Canadian population both in Québec and elsewhere in Canada. Furthermore, the population of people of British origin declined to 48 per cent because of the increase in international immigration and its overall contribution to population growth in Canada (Marmen and Corbeil, 1999: 1). By the 1960s, however, things changed drastically for the population of French speakers in Québec as fertility rates dropped, decreasing the proportion of Québec's French-speaking population size relative to the overall population size of Canada. As is shown below (**Table 1.)**, by 1971 the population of Québec (including English-speaking residents) as a percentage of Canada's overall population had fallen to below 28 per cent from the 32 per cent that it held around confederation.

Table 1. Population of Canada and Québec and Population of Québec as Percentage of Population of Canada.

Year	Population of Canada	Population of Québec	Population of Québec as % of Total Population of Canada
1851	2 436 297	890 261	36.5
1861	3 229 633	1 111 566	34.4
1871	3 689 257	1 181 516	32.3
1881	4 324 810	1 359 027	31.4
1891	4 833 239	1 488 535	30.8
1901	5 371 315	1 648 898	30.7
1911	7 206 643	2 005 776	27.8

1921	8 787 949	2 360 510	26.9
1931	10 376 786	2 874 662	27.7
1941	11 506 655	3 331 882	29.0
1951	14 009 429	4 055 681	28.9
1961	18 238 247	5 259 211	28.8
1971	**21 961 999**	**6 137 306**	**27.9**
1981	24 820 393	6 547 705	26.4
1991	28 031 394	7 064 586	25.2
2001	31 021 251	7 396 990	23.8
2006	**32 649 482**	**7 651 033**	**23.4**

Source: Institut de la Statistique du Québec (ISQ)

Thus, as trends in fertility continued to drop throughout the 1960s and into the 1970s it became clear that the population of Québec represented a declining minority within Canada despite religious efforts to promote fertility, religiosity and the French language. This demographic shift also corresponded to a fundamental social and political transformation of Québécois society that changed the way Quebecers perceived their 'national' identity and the role of the Québécois state in preserving that identity. This social and political transformation of Québécois society is known as the Quiet Revolution.

'Maîtres Chez Nous': The Quiet Revolution, the Rise of the Québécois Welfare State and Constitutional Reform

The two main political parties in Québec since 1960 and throughout the legislation and implementation of the QPIP have been the Parti Libérale du Québec (PLQ) and the Parti Québécois (PQ). The PLQ came into its own after 1955 when it severed all ties with the federal Liberal Party of Canada. It emerged as an electoral success in 1960 when its leader, Jean Lesage, was elected and the party transformed the province with the expansion of provincial state functions, establishing a strong provincial welfare state with an emphasis on liberal economic values (Linteau et al., 1989; McRoberts and Posgate, 1980). This period in Québec's history was known as the Quiet Revolution and will be discussed further below.

The PQ was founded in 1968 by former PLQ member René Lévesque. Under the leadership of Jean Lesage in 1965, Lévesque was appointed Minister of Family and Social Services, where he fought for the creation of Québec's own pension plan, separate from the federally administered Canadian Pension Plan (Paulin, 2003: 70-1; Béland and Babich, 2009). As provincial minister, he began to strike out against Lesage's liberal regime. Allying himself with the political and economic left, Lévesque created his own 'nationalist' political party wherein he advocated a social democratic model for the betterment of the Québécois 'nation' (Breton and Pellerin, 2001: 46-7). Lévesque's party would become known as the Parti

Québécois, and compared to the PLQ it did and still does advocate a strong Québécois social welfare state, with incentives to sustain the development of Québécois families, as well as a Québec that is independent from the rest of Canada. It was and still is the agenda of the Parti Québécois to eventually oversee the secession of Québec from the Canadian federal state in order to form its own nation-state independent from Canada. Advocates of sovereignty tend to represent more radical facets of Québécois nationalism although all Québécois political leaders, including federalist leaders (as in the members of the Parti Libérale du Québec), treat Québec as though it is a nation. They do so by publicly defending a distinct Québécois national identity and by advocating provincial autonomy wherever possible for their nation's 'members.'

For the first few decades of the twentieth century in Canada the development of federal social policies was hindered by federal institutional fragmentation and the reluctance of the state to interfere in the free market (Béland and Babich, 2009: 257). This changed, however, by the 1950s when, for example, the Canadian federal government secured a constitutional amendment that allowed federal government legislators to develop a national (ie. 'federal') public pension program (Béland and Babich, 2009: 258). Debates over national (ie. 'federal') programs such as the public pension scheme took on a different dimension by the 1960s when the role of the 'provincial state' in Québec changed the dynamic of sub-state nationalism in the province.

The most important contemporary shift in the role of the state in Québec took place in the 1960s when Liberal leader Jean Lesage became the political leader of the province. The election of Jean Lesage and the Parti Libérale du Québec (PLQ) –now dissociated from the federal Liberal Party of Canada– in 1960, marked the beginning of the Quiet Revolution in the province. This 'Revolution' was characterized by a quick change in the provincial government's role in economic development, welfare policy and state- rather than church-administered public services such as education and health care. These socio-economic as well as political changes were also reflected in Québec's culture as religious organizations had less strong a hold on individuals' social and political behaviour. The dissociation of the Québec Liberal Party from its federal counterpart also allowed Lesage to promote a very specific 'provincial state' nationalism which would replace Duplessis's religious conception of Québécois nationalism. Thus, under Lesage's reign, it became clearer to Quebecers that Québec, as a province, whose devolved legislative powers in the areas of social programming were expanding with the growth of the welfare state, could become the genesis

of a much different Québécois national identity from that embodied by Duplessis's religio-linguistic nationalism.

Once the PLQ was elected in 1960 the role of the provincial state was dramatically reformed in Québec. Although what has come to be known as the Quiet Revolution is sometimes regarded as a widespread decline in traditional Québécois social norms such as high marriage rates, high fertility rates and primarily agricultural-based lifestyles (Trofimenkoff, 1983: 299), some (Lajoie et al., 1986; Linteau et al., 1989) also maintain that urbanization and industrialization had already began in the province by the end of the nineteenth century. The Quiet Revolution, thus, was primarily a revolution in the style of government in the province, the role of the state in society, and a large-scale shift in the 'provincial state's' provision of secular services and the development of its social policies. Lesage's PLQ reign was characterized by an enormous growth in state responsibility in the province. Administrative institutions were modernized to meet the needs of the new welfare state; domains once administered by the church and local authorities such as education, health care and social services were granted economic development and financial assistance by the provincial government (Linteau et al., 1989: 689).

The growth of 'provincial state' responsibilities and objectives in Québec during the 1960s were also often met with federal disapproval, legislative constraints and jurisdictional battles with the federal government. While the Canadian federal government had embarked on a federal 'nation-building' campaign by introducing programs to Canadian citizens such as public pensions and universal health care, Québécois politicians often objected to these projects on the grounds that Canadian nation-building meant 'federal' nation-building, leaving little room for sub-state 'nation-building' objectives (Telford, 2003). Kymlicka (2001) argues that throughout the twentieth century Canada and Québec's nation-building projects were often undertaken in tandem and that 'federalism' was strained not only by Québec's desire to decentralize federal powers but also by English Canada's desire to 'uphold collective institutions' (263). Thus, 'the impasse in Québec-Canada relationships is not simply that Quebecers have developed a strong sense of political identity that is straining the bonds of federalism. The problem is also that Canadians outside Québec have developed a strong sense of pan-Canadian political identity that strains the boundaries of federalism' (Kymlicka, 2001: 263).

Jean Lesage ran his second electoral campaign in 1962 based on the slogan 'Maîtres Chez Nous.' Running on a platform of nationalist economic objectives such as the nationalization of hydroelectricity companies, Lesage secured a second electoral victory on 14 November 1962 (Linteau et al., 1989: 718-20). In Lesage's victory speech, the Premier of the province declared:

> Citoyens et citoyennes de la province de Québec, je vous l'avais dit, il y a quelques jours. Nous en avons la preuve ce soir. Nous avons atteint la maturité politique. Nous sommes prêts maintenant pour la libération économique. Il n'y a plus de maintenant ou jamais. Ce soir nous devons dire : « C'est maintenant que nous deviendront maîtres chez nous ». (SRC)

Lesage's declaration to the people of Québec demonstrated that his government represented economic change as well as a change in the style of governance from a church-oriented society to a state-oriented society capable of implementing legislation that would have a direct effect of the relationship of individuals to the 'provincial state.' The Quiet Revolution had parallels elsewhere in Canada, as many other provinces expanded their welfare states in the 1960s by providing their residents with social programs with budgets apportioned in conjunction with the federal government. However, in no other province did social policy come to represent regional or 'national' identity in the same way that it did in Québec.

During the post-war construction years the federal government's ability to give provinces federal spending grants for social programs (which were, jurisdictionally, the legislative prerogative of the provinces) established the superiority of the federal government's constitutionally guaranteed spending power in areas that were constitutionally devolved to the provinces. In the 1960s Québec put pressure on the Canadian federal government to justify the constitutionality of the federal spending power; however, to this day it continues to be a constitutional anomaly (Telford, 2003). This and other constitutional issues came to the fore in the 1960s as Jean Lesage's government sought many reforms at the level of the provincial state with the sub-state 'nation-building' objectives of securing provincial autonomy in as many legislative areas as possible in order to represent Quebecers' best interests.

However, the evolution of both the federal and provincial welfare states in Canada during the 1960s within a federal system wherein the provinces relied upon fiscal transfers from the Canadian federal government created 'a perception of cultural or national subordination in Québec' (Telford, 2003: 25). In 1965 'opting-out' arrangements were legislated in the

Established Programs Act. These arrangements allowed for any province to 'opt out' of a shared cost program initiated by the federal government (Telford, 2003: 37). This allowed Québécois political actors to gain control over provincial social policy in a way that had never been possible before. Thus, the Quiet Revolution in Québec was also expressed in the form of renewed intergovernmental relations between the provinces and the federal Canadian state.

Richard Simeon argues that social policy developments in the 1960s such as the establishment of Canada and Québec Pension Plans as well as Canadian universal medical care evolved within a 'massive expansion of executive federalism' (2005: 84). There was, at this time, a rise in intergovernmental conferences and ministers' meetings that lent itself 'to a newer model of assertive provinces claiming equal partnership with the federal government, and resisting perceived "intrusions" into their jurisdiction' (Simeon, 2005: 84). These conferences and meetings of ministers, Simeon shows, 'became the arena in which the fundamental questions of Québec's role in the federation came to the fore, in the search for non-constitutional asymmetry, reflected in the "opting out arrangements" of 1964, the establishment of two pension plans –the CPP for the nine provinces and the QPP for Québec– and in other areas' (2005: 84-5).

Throughout Lesage's reign as provincial leader (1960-6), Québec opted out of 29 of 45 shared federal welfare programs, as Québec representatives preferred to take their own initiative (Güntzel, 1993: 11-2). Furthermore, social problems in the province that had to be treated with social programs began to appear in none other than 'nationalist' terms, meaning that Québec was to become master of its own social policies in order to serve its own Québécois population (Güntzel, 1993: 27). The administration of sub-state national social policy, we will see, persists into the twenty-first century and becomes one of the main means of reproducing both 'banal' and 'hot' national identity in the province during the legislation and implementation of the QPIP.

The drastic changes in the organization of the Québécois state that took place during the Quiet Revolution also had an impact on social actors' objectives such as trade union groups and feminist groups. Jacques Rouillard argues that 'By modifying the dominant values of Quebecers, the Quiet Revolution had an enormous impact on the trade union movement' (2004: 139). According to Güntzel, organized labour supported the secularization and modernization of education and health care and the PLQ, in turn, supported organized labour

for its efforts (1993: 21). Large trade unions such as the *Centrale Syndicale du Québec* (CSQ) (formerly the *Centrale de l'enseignement du Québec* [CEQ]), the *Confédération des syndicats nationaux* (CSN) and the *Fédération des travailleurs et travailleuses du Québec* (FTQ) supported the 'nationalization' of social policy, especially policy relating to the welfare of workers, families and women. These trade unions often made nationalist arguments to recruit new members (Güntzel, 1993: 96). These same trade unions as well as other social organizations were later responsible for setting in motion the legislation of a Québec Parental Insurance Plan as well as for framing its purposes in a nationalist discourse.

During the 1960s there was not only a major shift in Québécois political and economic nationalism but also in the province's demography. Widespread social and political change had effects on gender roles, the family and fertility in the province. Rates of fertility dropped dramatically in the province in the 1960s while immigration to the rest of Canada was encouraged from many European countries after the Second World War. This, in turn changed the entire make-up of Canada's population giving French-speaking Québec a much smaller proportion of Canada's overall population numbers. Although, as Marmen and Corbeil show, the number of Anglophones decreased in the province of Québec between 1960 and 1996, the percentage of Francophones in Canada's overall population declined from 29 per cent in 1951 to 24 per cent in 1996 (1999: 54). As Légaré explains, the 1960s also represented the greatest shift in overall fertility in the province during the twentieth century. The average number of children birthed per woman fell from 3.4 in 1964 to 1.7 in 1974 (Légaré, 2003: 180-1).

A combination of these factors led to the fear of population decline and the possibility of linguistic and cultural extinction of Francophones in Canada. The social and political actors who tapped into this fear often expressed it in the form of social policy that dealt explicitly with population numbers. Because the legislation of social policy and social welfare programs took on such an important role in the modern state, the kinds of policies that attempted to deal with the concepts of population decline, demography and fertility have been interpreted by the representatives of different political communities in various ways. (Specific examples of both the PLQ's and the PQ's legislation of policies that had the purpose of increasing the birth rate in the province will be explained in greater detail in chapter 4.) Representatives' interpretations of fertility decline are especially relevant in a political community such as Québec where the legislation of policy occurs at the sub-state rather than the federal state level. The relationship between the concepts of population,

demography and fertility and the legislation of policy is especially interesting, it will be argued, because it occurs within a context wherein there is a 'national' struggle to express legislative and administrative sovereignty.

During the 1960s, the Parti Libérale du Québec single-handedly re-engineered the objectives and relationships of the Québécois 'state' and Québécois society. One of the effects of this instrumental change in the governance of the Québécois people was the implementation of the health and education systems that trade unionists demanded (Rouillard, 2004: 139). The purpose of these social institutions, moreover, was to reproduce a fundamentally 'Québécois' society. The goals of those who initiated the Quiet Revolution could be grouped, Jacques Rouillard suggests, according to three main categories. Those were, 'the affirmation of liberalism, the expansion of the role of the Québécois State, and the development of Québécois nationalism' (2004: 142).

One could interpret 'the affirmation of liberalism' as a growth in the desire to assert the individual and collective rights of citizens as individual citizens and as groups. Civil rights representatives and other groups like those represented by activists seeking gay rights, aboriginal rights, native land claims and language rights were also given equal opportunities to be heard. Canadian Prime Minister John Diefenbaker responded to this affirmation of liberalism by legislating the 1960 *Canadian Bill of Rights*. Plans soon followed to draft a *Canadian Charter of Rights and Freedoms* when federal Liberal leader Pierre Trudeau was elected in 1968, suggesting that the evolution of Canada's constitution also responded to political developments.

This, furthermore, was important to the development of national identity in Québec for two reasons. One reason was that the recognition of individual and collective rights played an important part in the socio-legal and political endorsement of minority cultures both in Canada and elsewhere. However, the affirmation of individual rights both in the form of the 1960 *Bill of Rights* and the 1982 *Charter of Rights and Freedoms* also angered many Québécois nationalists because both constitutional reforms were believed to have favoured the individual over collective organizations such as linguistic and cultural groups.

The establishment of both federal and provincial 'nation-building' social policies from the 1960s onward gave both Canadians and Quebecers a sense of 'social rights' and established the obligations of both federal and provincial governments to their citizens. Because the

administration of 'nation-building' social policy in Canada was often divided according to federal Canada and sub-state national Québec, the concept of social rights also developed in two separate 'national' contexts. One of the ways in which the Canadian federal government attempted to quell the growing divide between Canadian and Québécois 'nations' was by establishing a Canadian Charter of Rights and Freedoms. The Charter had the federal nation-building objective of uniting all Canadians under one common banner. It was proposed in the 1970s by then Canadian Prime Minister Pierre Elliot Trudeau.

Prime Minister Trudeau, the Patriation of the Canadian Constitution and the Canadian Charter of Rights and Freedoms

Pierre Trudeau changed the way that individual Canadians as well as Canadian institutions such as the Supreme Court of Canada and the House of Commons treated the concept of 'rights' in Canada. Trudeau was one of the first public figures to draw attention to the disparity between individual and collective rights in Canada in the post-war era. In the May 1964 edition of *Cité Libre* Trudeau stated:

> In the present political situation, it is important above all that we place new emphasis on the individual, regardless of accidents of ethnicity, geography or religion. The social and political order must be built first on the universal attributes of the person, and not on what separates us one from another. Political and social priorities based on the individual are totally incompatible with priorities based on race, religion or nationality.
>
> […]
>
> If we are to move this country ahead, we must at all costs preserve and develop federalism.   (13, quoted in Bernier and Lajoie, 1986: 82 n.56)

Individual rights, Trudeau believed, would establish the equality of all Canadians before the state beyond all cultural, religious, linguistic or ethnic differences. Establishing a social and political order based on the rule of law and equal individual rights, however, flew in the face of collective bargaining in favour of any one particular 'national' group. This did not meet the satisfaction of Québec leaders at the time, especially with the growth of Québécois nationalism in the province during the 1960s and 1970s.

In 1968, once Trudeau was elected Prime Minister of Canada, negotiations began to patriate the Canadian Constitution with the inclusion of a Charter of Rights. Trudeau's plans to 'unite Canada' and to instil in the people of Canada a feeling of pan-Canadian nationalism were incited by fears that a growing sub-state nationalism in Québec might fuel the break-up

of the country. According to Québécois nationalists, Quebecers formed a collective body with 'rights' of its own, such as the ability to govern itself. Individual rights, moreover, often ran contrary to the logical political basis of the nationalist narrative in Québec. While Lesage's Liberals remained committed 'to greater equality of opportunity' and generally showed deep concern over the fulfilment of Québécois national aspirations, they were also fundamentally dedicated to Canadian federalism (Behiels, 1985: 262).

However, this commitment to federalism changed dramatically in the 1970s with the birth of a new provincial political party in Québec. Dissatisfied with the federalist tendencies of both the provincial and federal Liberal parties, René Lévesque established the Parti Québécois as a political proponent of provincial sovereignty (Linteau et al., 1989: 726). With nationalist as well as social democratic orientations the PQ extended some of the general principles of the Quiet Revolution such as increased government services, the 'nationalization' of the provincial economy, and progressive new policies for women and families (Linteau et al., 1989: 728-9). However, the Parti Québécois' policies were more interventionist than Jean Lesage's and made more explicit the relationships between national identity and provincial state power (Lajoie et al.,1986: 34). This was especially true in 1980 when René Lévesque and the Parti Québécois held a referendum on sovereignty association. Although those in favour of sovereignty failed to garner more than 50 per cent of the electorate's votes, the possibility of Québec's secession from Canada was raised.

The Quiet Revolution in Québec, the rise of Québécois nationalism, and particularly the subsequent rise of sovereignty nationalism with the election of the pro-sovereignty Parti Québécois in 1976, was a major catalyst for constitutional reform in Canada (Cairns, 1991: 70). The Canadian Constitution went from being seen as a form of protection for the Province of Québec under the reign of Maurice Duplessis to being an impediment to full state sovereignty under the political reign of René Lévesque and PQ leaders to follow (Lajoie et al., 1986: 34).

At the time of confederation the *British North America Act, 1867* did not include provisions for individual or collective rights. After World War II, and more specifically in the 1960s, modern Western democracies became attuned to the concept of human rights, the social and political effects of which became evident in such social movements as the Civil Rights movement in the U.S. as well as women's liberation and gay rights movements across North America and parts of Western Europe (Ignatieff, 1993: 1). In Canada the first legislative

attempt to entrench Canadians' individual rights in law was the 1960 *Bill of Rights* which reflected then Prime Minister John Diefenbaker's 'ideology of pan-Canadianism' (Cairns, 1995: 42).

The 1960 Canadian *Bill of Rights* was superseded in 1982 with the inclusion in the newly patriated *Canada Act, 1982* of a Canadian Charter of Rights and Freedoms. The Charter was said to have had many different political roles at the time and continues to be an instrument of social and political expression by individuals and minority groups. At the time of its inclusion in the constitution, the Charter was believed by the federal Liberal government to be a nation-building project; it was meant to set limits on the diversity of treatment experienced by Canadian citizens in each province; and, it challenged the belief that all Canadian citizens were homogenous, making provisions for Canadian citizens who were once overlooked by a white Anglophone and patriarchal system (Cairns, 1991: 21, 44, 19). For citizen groups such as women's organizations, Aboriginal organizations and representatives of the gay rights movement, the Charter was imagined to be status-enhancing, a tool to re-negotiate the equality of individuals who were historically denied the same benefits as other Canadian citizens (Cairns, 1991: 21). In Québec, the sovereigntist Parti Québécois was in power during the lead-up to the patriation of the *Canada Act, 1982* and depicted the legal-political event as a betrayal of Quebecers (Cairns, 1991: 23).

One thing that is true for all Canadian citizens is that in the latter half of the twentieth century the rhetoric of rights and the language of rights became common to everyday representations of citizenship, Canadian identity and even regional or minority identities in Canada. While the *Charter of Rights and Freedoms* was designed by federalists to engage in a kind of federal nation-building project in order to demonstrate that the rights of citizens have priority over the political goals of governments, and to recognize that the language of rights is 'Canadian' and not 'provincial' or 'local,' this did not preclude Québécois nationalists from also employing the language of rights to accommodate their own political beliefs (Cairns, 1991: 98, 111; Dion, 2005: 186; Lajoie et al., 1986: 93-5).

According to Beetz (1965), during the Quiet Revolution in Québec, federalism was depicted by political actors as the absence of rights. Furthermore, in the lead-up to the patriation of the constitution, PQ leader René Lévesque claimed that Quebecers had a right to defend their own autonomy and to demand a federal agreement 'on a more equitable distribution of powers' (Lajoie et al., 1986: 95 n. 225). It is the contention of this thesis that the devolved

nature of social policy legislation in Canada which has led to various state and sub-state jurisdictions' claims to social rights played an important role in the legislation of the Québec Parental Insurance Plan. The legislation of social policy is a means for sub-state jurisdictions to mobilize claims against the federal state to which their autonomy is often subject. It will be argued throughout this thesis that 'rights' became a rhetorical stance taken by many social and political actors in Québec during the legislation of the QPIP to make the case to their own interest groups that their particular claims against the Canadian federal state were legitimate.

When Pierre Trudeau successfully patriated the Canadian Constitution in 1982 in the form of the *Canada Act, 1982* –approved by British and Canadian governments, including all provinces except Québec– his government 'sought to establish a national citizenship regime, based on the Charter of Rights and Freedoms, […] which would enshrine the "equality of the provinces," and establish "national standards" in social policy' (Simeon, 2005: 87). This goal was, however, stifled by Québec representatives' refusal to sign the patriated constitution in 1982. The reason for the representatives' condemnation of the *Canada Act, 1982* was because the equality of treatment of all Canadian citizens and provinces did not adequately represent Québécois 'difference' within the Canadian state. Antagonism toward Canadian federal nation-building objectives suggests that there is a strong relationship between sovereignty over social policy legislation, provincial autonomy and sub-state nation-building objectives in Québec. The role of the welfare state as well as the administration of social policy in both Canada and Québec from the 1980s onward will be discussed further in chapter 4 in the context of the genesis of Bill 140 and other PQ policies that were initiated in the mid-1990s in the province of Québec.

Conclusion

As was demonstrated at the beginning of this chapter, Québécois political nationalism has been shaped by a number of Canadian institutions such as the constitution and the Supreme Court of Canada. Because the Canadian federal system has tended toward decentralization, it has allowed minority interests to foster strong cultural and political identities. Québec, unlike any other Canadian province, has used the flexibility of Canadian federalism to its political advantage, claiming to be its own nation and establishing its own nation-building objectives in the context of the administration of social policy and the modern welfare state.

For Canadian nationalists, much of the rhetoric concerning membership in the Canadian nation has focused on the central principles of the Canadian Constitution –that is, an adherence to the rights, freedoms and equalities that are supposed to bind all citizens regardless of regional difference and historical origin. For Québécois nationalists, much of the rhetoric concerning membership in the Québécois nation has focused on the linguistic homogeneity of the population. Nationalist representatives in the province frequently claim the 'rights' of Quebecers to provincial legislative autonomy in order to foster a sense of sub-state 'national' identity and solidarity.

Language politics, Québec nationalism and constitutional politics all share historical beginnings in the foundation of the Canadian nation-state and are integral to any understanding of Canadian or Québécois political life (Gibbins, 1994: 6). These concepts, moreover, share historical links with demographic data, the nature of population change and the effects of population numbers on Québec's perceived political power. At the time of Confederation it was believed that political federalism and cultural regionalism could work as two separate but overlapping phenomena in one single and unified nation-state. However, the Canadian Constitution and its federal structure have long presented problems to those people who are 'historically and juridically Canadians, but whose roots are found in French culture' (Cook, 1966: 2). The extent to which Quebecers are dissatisfied with their provincial or, arguably, 'national' status within Canadian Confederation has varied throughout the past century but often surfaces in jurisdictional battles over the administration of social policy or other forms of legislative autonomy.

With the rise of the welfare state, it is possible to trace a growing sense of autonomy among Québec governments when it comes to the provincial provision of social programs. Furthermore, while the Canadian Constitution has specific provisions for the provinces to be sovereign over their own welfare measures, Québécois political elites continue to challenge federal jurisdictional powers in order to make nationalist inroads and campaigns where none existed before. Thus, one question that this thesis explores is the extent to which the Québec Parental Insurance Plan as well as its legislative and judicial manoeuvring is an example of one such 'nationalist' polemic that contributes to the ongoing socio-political transformation of the Canadian Constitution and sub-state nationalist conceptualizations of population. Not only does this thesis explore the relationship between social policy, nation-building and sub-state nationalist political agendas, but it also explores whether or not the historical concept of 'population' and 'population policy' adds a different dynamic to contemporary social policy

legislation and sub-state nationalism in Québec. These ideas will be considered at greater length in the substantive chapters of this thesis.

Chapter 4: The Development of Bill 140: Its Political and Legislative History as well as its Interaction with other Policy Agendas in Québec

The following chapter describes the evolution of the Québec Parental Insurance Plan (QPIP) in the context of the development of extensive family policy legislation in Québec in the 1990s and early 2000s. It gives a clearer picture of both the social and political exigencies that faced legislators in Canada and Québec from the mid-1990s forward and discusses how Bill 140 interacted with other policy agendas that were set before the bill's initial legislation. This chapter describes the QPIP in the context of the Parti Québécois' 'white paper' policy agenda that had its origins in the mid-1990s. The white paper policies were intended to be legislated as (provincial) state-run family policies. Those that were successfully legislated and implemented included an affordable day care program and an anti-poverty act. Although the Québec Parental Insurance Plan evolved within the same policy context as these programs, this chapter will highlight its similarities as well as its major differences from other white paper policies such as the affordable day care program and the anti-poverty act, two policies that were legislated and implemented by the Parti Québécois (PQ) between 1996 and 2003.

The major differences between the QPIP and the other white paper policies that were legislated and implemented by the PQ include the fact that the legislation of the Québec Parental Insurance Plan was claimed not to fall under provincial jurisdiction and was contested by the Canadian federal government on constitutional grounds, the fact that the implementation of the plan in Québec was curtailed by the Canadian federal government until the provincial Parti Québécois was replaced by the Parti Libérale du Québec (PLQ), and the fact that, unlike the other social programs legislated at the same time as the parental leave plan, the QPIP was not financed by provincial tax dollars in the way that most social programs are; rather, it was implemented as an insurance scheme like the programs legislated under the federal *Employment Insurance Act*, whereby employees and employers buy into a plan with the income that they generate as employees and employers.

In order to understand where Bill 140 came from and the way in which it interacted with other policy agendas, it is important to understand how family policy was formulated publicly in Québec and the rest of Canada in the 1990s. From the 1980s onward, Canada, like many Western nations, experienced a significant shift in the politics of the welfare state (Dobrowolsky and Jenson, 2004; Jenson and Saint-Martin, 2003; Saint-Martin, 2004; Telford, 2003; White, 2003). Canadian social policy was deeply affected by social and

economic policy transformations that took place in the 1980s. The re-engineering of the welfare state that included drastic cuts to publicly funded programs reflected strict neo-liberal ideologies present not only in Canada but also in the US, the UK and other parts of Western Europe. Some (White, 2003; Jenson and Saint-Martin, 2003) have argued that the adoption of a strict neo-liberal policy regime during this time eroded the features of a citizenship regime that had been present in Canada since the rise of the welfare state after the Second World War. This citizenship regime represented a set of civil, political and social rights that not only served to make all Canadians equal before the state but that also fostered a sense of 'national' identity and 'social cohesion.'

The erosion of the welfare state in the 1980s and 1990s resulted in the construction of different discourses and practices of 'social cohesion' in Canada (Dobrowolsky and Jenson, 2004; White, 2003). Social and political changes in the Canadian state profoundly affected the ways in which policymakers discussed issues surrounding 'the family' and the ways in which families were treated by politicians' neo-liberal shrinking of the welfare state. In Québec the Canadian welfare state's retreat from publicly funded family policy became a contentious issue. Québec's continued support for family policy initiatives were framed in a discourse of 'nation-building' and 'national solidarity'; Québécois 'families,' in turn, became one of the means by which legislators reproduced Québécois 'national' identity as different from Canadian 'national' identity.

An analysis of the QPIP in this historical context makes the links between Québécois nationalism, the Quiet Revolution and the importance of the growth of the 'provincial' welfare state, which was detailed in chapter 3, clearer to the reader. Also, an analysis of the evolution of the QPIP in the context of the other PQ 'white paper' policies suggests that the relationship between family policy and nation-building policy projects in the province was vital to legislators' public representations of the white paper policies. However, apart from provincial legislators' representation of the white paper policies as 'nation-building' projects, it is argued in this thesis that the legislation and implementation of the QPIP also highlighted social and political actors' public concerns with 'population numbers' and 'birth rates' in the province.

The Welfare State at the End of the Twentieth Century: The Canadian Situation

In Canada the role of the welfare state and the legislation of social policy, it is argued, inform Canadians' identification with a national community (White, 2003; Telford, 2003;

Banting, 1999). Social policies such as universal health care and insurance against unemployment have influenced what are typically conceived of as 'national values' in Canada. These national values, moreover, are often discussed by scholars of sociology and social policy as aspects of 'social cohesion' and 'social citizenship' (Banting, 1999; Dobrowolsky and Jenson, 2004; White, 2003). The reproduction of national values by means of the welfare state, moreover, is believed to belong to a broader set of nation-building projects such as the administration of rules and rights relating to community, culture and language. This is because it is generally accepted that social policy can greatly affect the ways in which the citizens of welfare states 'imagine' their relationships both to the state in which they claim association and to their fellow citizens (Marshall, 1965, 1969).

Some have argued that the retrenchment of the welfare state in Canada during the 1980s changed certain aspects of social cohesion, national solidarity and the concept of citizenship (White, 2003; Prince, 1999; Jenson and Papillon, 2000; Banting, 1987; Jenson and Saint-Martin, 2003). White argues that 'economic and policy transformations since the 1980s have eroded the *social* aspects of Canadian citizenship' causing cases of individual and group poverty to rise, and leaving large numbers of individuals with precarious ties to employment, income and/or social assistance (2003: 54). In response to this erosion of the social aspects of Canadian citizenship, White (2003) and Stanley (2003) suggest that the representatives of the Canadian state generated new grounds for social citizenship in the mid-1990s and early twenty-first century.

When the Canadian economy recovered from the 1980s economic downturn by the mid-1990s, instead of returning to the previous model of social policy legislation that was focused on significant contributions from the state, social rights and redistribution, legislators turned to a new model based on economic regulation, the contributions of civil society, including private corporations, and the eventual privatization of social services (White, 2003). According to this model, the role of the state is downplayed and '[s]ocial cohesion is reduced to the "average" behaviour of individuals who are thought of as the constituent elements of society' (White, 2003: 65). What this individualistic model of the welfare state also generated was a sense that '[c]onstituent collectivities, such as women, youth, ethnic groups, nations and regions' were becoming less visible (White, 2003: 65).

Although Québec was not immune to the retrenchment of the welfare state in the 1980s, some have argued that the response to social policy initiatives taken by provincial representatives both during and after the economic downturn in the 1980s differed from that

taken in the rest of Canada (Béland and Lecours, 2005; Telford, 2003; Saint-Martin, 2004). It was during the mid- to late-1990s that social policies such as the Québec Parental Insurance Plan emerged as the focus of a new family policy agenda in Québec. Policies such as the QPIP as well as affordable day care and Québec's 'law against poverty' were articulated in a 'nationalist' (ie. Québécois) context and were often formulated as attempts to curtail the administrative powers of the Canadian federal government with respect to social programming and the representation of a 'national' (ie. federal) Canadian citizenship regime. It is in this context, therefore, that this thesis undertakes an analysis of the legislation and implementation of the Québec Parental Insurance Plan.

The Welfare State at the End of the Twentieth Century: The Québec Situation

Recent scholarship has suggested that there is an important relationship between sub-state nationalism and the emergence of the modern welfare state (Béland and Lecours, 2005, 2008; McEwen, 2002, 2006). Béland and Lecours argue that 'the processes of identity formation/consolidation and territorial mobilization inherent to substate nationalism often involve a social policy dimension' (2005: 676). In some contexts, they claim, sub-state nationalism can have the effect of 'strengthening the policy autonomy of regional entities' (2005: 677). This is especially true in Québec where matters of social programming have, historically, been devolved to the Canadian provinces, including Québec.

In all welfare state societies, social policy has the purpose of providing services, programs and incomes to the citizens or members who claim membership in them. However, provincial sovereignty over matters relating to social policy in Québec is, arguably, different from that in any other Canadian province and many other sovereign nation-states. This is because the linguistic and cultural dynamic in the sub-state jurisdiction has meant that social policies, as processes of territorial mobilization and identity formation, 'can be treated and articulated by nationalist leaders as symbols of a wider set of values, societal priorities, and political culture' (Béland and Lecours, 2005: 678-9).

Programs that are legislated by any given jurisdiction, whether it is a state or a sub-state nation, can generate 'national' identity-building characteristics. However, this is especially true at the sub-state level, Béland and Lecours maintain, because the legislation of policy at a sub-state level in a federal state structure will almost inevitably create jurisdictional battles. These jurisdictional battles, moreover, allow the sub-state nation to tag the 'federal' government as a hindrance to the sub-state nation's autonomy and 'welfare.' For example,

cuts to the Canadian welfare state regime in the 1980s and 1990s meant that family policy such as a 'national' (Canadian) day care program that had been on the table since the 1970s was, again, put on hold (CBC, 2009; Japel et al., 2005; Kohen et al., 2008). This was depicted by provincial government representatives in Québec as the Canadian government's unwillingness to invest in families, which, as we have seen in the previous chapter, had traditionally been an area of great interest in Québec. This kind of political represenation of the federal state as an obstacle to the provision of what are deemed important services, moreover, tends to take place because 'jurisdictional battles stemming from the federal or decentralized nature of political systems can become a powerful source of nationalist mobilization at the substate level' (Béland and Lecours, 2005: 679).

In Québec the importance of social policy became particularly visible in the 1980s during the referendum on sovereignty-association in the province. This was because the sovereigntist political party then in power, the Parti Québécois, believed that the combination of language policies and progressive social policy would encourage social and political solidarity in the province (Béland and Lecours, 2005: 685). It was also an opportune time to claim social policy as a sub-state 'national' interest against the contraction of the Canadian welfare state. Saint-Martin goes so far as to suggest that there is a clear historical link between the rise of the welfare state in Québec and the creation of an identity that is specifically 'Québécois' (2004: 2). He argues that Quebecers make little distinction between the welfare state and the nation-state. Thus any attempts to axe welfare state measures such as social policies (especially those aimed at stimulating the development of culture and language), according to Saint-Martin, are regarded as an attack on Quebecers' collective identity (2004: 2).

This is especially true in the context of family policy. In Québec, the 'family' has been treated differently than it has in the rest of Canada both historically and contemporaneously. With the exception of income tax deductions and tax credits, which have had the purpose of assisting families, especially with regard to the responsibilities incurred by raising a child, the Canadian federal government has never adopted 'a systematic and explicit family policy at the federal level' (Baker, 1994: 119). The province of Québec, however, has differed in its approach to family policy and, since the 1960s, has had a variety of state-sponsored family programs that have included, among other things, incentives for women and families to birth more children (Baker, 1994). In Québec, traditionally, the family has been depicted as the source of population growth that saved French-language culture and practices in a Canadian state indifferent to preserving minority cultures (Lachapelle and Henripin, 1982). Until the Quiet Revolution, moreover, higher birth rates in Québec meant that the province

could maintain its share of Canada's total population (Linteau et al., 1989; Trofimenkoff, 1983).

In order to continue to maintain a 'viable' share of Canada's overall population, Québécois legislators have invented various means to encourage Quebecers to have more children. When René Lévesque came to power in 1976 as the leader of Québec's first elected sovereigntist party he made significant reforms to family policy in the province. For example, as leader of the province, he introduced a 'housing platform, in which he promised that a family with a child less than a year old would be eligible for a $10,000 low-interest housing loan, with a portion of the debt to be forgiven with the birth of each subsequent child' (MacDonald, 2002: 188). Also, Lévesque made 'family-allowance payments receivable from the time a woman's pregnancy was confirmed by her physician' (MacDonald, 2002: 188).

During the late 1980s, when the Canadian federal government was scaling back the size of its welfare subsidies and social support programs, Robert Bourassa's Parti Libérale du Québec government 'established an Advisory Council on the Family, and in the 1988 budget announced the creation of a new Ministry of State Responsible for Family Life and a series of measures to help support families' (Baker, 1994: 120). On top of the creation of a new ministry, in May 1988 Bourassa announced a program that would receive much public notoriety: baby bonuses. These 'allowances for newborn children' included $500 (Cdn) for each of the first and second child and $3000 (Cdn) for the birth of the third and each subsequent child (Baker, 1994: 120). These policies made the concepts of population and 'pro-natalism' highly visible to both the Canadian and Québécois public. They demonstrated, moreover, that there was a strong relationship between social policy legislation in the province and the reproduction of a unique Québécois identity.

The social policy dimension of sub-state nationalism, Béland and Lecours argue, is especially important in communities where language is a determinant of national identity. In order to avoid charges of ethnic nationalism, politicians focus on the relationship between nationalism and social policy 'to project a more inclusive nationalism' (Béland and Lecours, 2005: 685). In this context, however, they are still capable of expressing the importance of the French language to Québécois culture and national identity by making the link between social services such as health care and education and the potential for the provision of these services 'to become the focus of language-rights claims' (2005: 686). It is for this reason that social policies implemented by the PQ in the mid- to late-1990s should be analyzed and

understood in the contexts of the PQ's agenda-setting role in the province. Béland and Lecours propose that although the policies included in the PQ's 1997 white paper such as the 5 dollar-a-day day care and the anti-poverty law had the 'avowed' objective of reducing poverty and social exclusion as well as encouraging single mothers to join the workforce, these policy concerns 'should be understood, at least partly, in terms of the low birth rate in Québec and its consequences for the long-term political power of the province within Canada, as well as the chances for a successful referendum on sovereignty in a context of increased immigration' (2005: 687).

If this is the case, then not only can the PQ's white paper policies of the 1990s be used to highlight the relationship between social policy and sub-state nationalism, but they may also be used to explore the extent to which such social policy may have had either demographic roots (in terms of concerns about population trends) or demographic objectives (in terms of implicit or explicit pro-natalism, or, a sub-state nationalist interest in population size and matters relating to the demographic make-up of Québec). The QPIP in particular is a good case with which to analyze sub-state national interest in social policy because sub-state national sovereignty over legislative matters became more visible in the context of the parental leave plan on account of the jurisdictional disputes that took place between federal and provincial jurisdictions over the QPIP's legislation. In order to understand how these jurisdictional disputes came to light it is necessary to provide the reader with an overview of the white paper policies and the purposes behind their legislation as well as a detailed history of the Québec Parental Insurance Plan, the social and political actors involved in its legislation and the debates that ensued over its constitutional status.

The Parti Québécois' 'Livre blanc sur la politique familiale du gouvernement québécois'

On January 23 1997, the provincial Minister of Education, Pauline Marois, unveiled the Parti Québécois' white paper entitled 'Les enfants au Coeur de nos choix,' in the presence of the Québec Premier Lucien Bouchard. On that same day in January 1997 Lucien Bouchard outlined the proposed outcomes of the white paper as new family policies that would permit the province to 'realize its social democratic objectives' (Gouvernement du Québec, b). The first proposal entitled 'Le choix des enfants' outlined a strategy to stabilize the financial incomes of single-parent families. It also proposed free access to medication for all children, the renovation of social housing, and education reform. The second part of the proposal entitled 'La politique familiale,' addressed the issue of maternity leave, access to affordable day care, and it reinforced the idea that regardless of their economic status, all parents should

have the right to devote time to their newborn children, or the child that they have just adopted, without incurring financial penalties (Gouvernement du Québec, b). The third part of the proposal was entitled 'Équité et emploi.' It outlined the desirability of employment opportunities and return to work policies. This demonstrates that when the QPIP was first conceived it belonged to a set of policies oriented toward reducing child poverty, ensuring that parents who decide to have children do not encounter financial hardship because they have decided to parent, and improving the general well-being of Quebecers. At the outset, therefore, these policies were not presented either as addressing any specific demographic issues, or as having any particular demographic consequences (such as increasing fertility rates in the province).

Of all the proposals made in the 'white paper,' three that were successfully legislated and implemented were the law against poverty, the legislation of affordable day care and the parental leave program. The white paper policies were innovative among most North American policies insofar as they allowed Québécois legislators to target the domain of the family for the purpose of reducing social problems such as poverty, the growing number of families with low incomes and social exclusion. According to Pauline Marois, then PQ Minister of Education and Minister responsible for the Family, the specific purposes of the white paper policies were:

> […] le développement et l'égalité des chances pour les 1 600 000 enfants du Québec; une meilleure conciliation travail-famille par des politiques plus équitables, plus incitatives, dans certains cas, au travail; une réforme globale portant sur les allocations, les services de garde, l'éducation maternelle et les congés parentaux; et, très important, le maintien d'une aide universelle, tout en favorisant les familles à faibles revenus. (National Assembly of Québec, t: 3)

Thus, the PQ's white paper policies had the stated purpose of improving the quality of life of families with low incomes, of providing equal opportunities for all Québécois children, and of initiating better work-life balance protocols in the province.

Several white paper policies that were legislated and implemented by the PQ between the years 1996 and 2003 appeared to have followed the PQ's initial policy agenda. The following sections give an overview of Bill 112 *An Act to combat poverty and social exclusion* and Bill 145 *An Act from the Ministry of Family and Childhood modifying the Bill on day care services.* These bills were initiated by Lucien Bouchard's PQ government in the late 1990s. Bill 145 was adopted by Bouchard's government in 1997. However, Bill 112 was passed in the National Assembly of Québec by Bernard Landry's Parti Québécois

government in December 2002. This occurred after Lucien Bouchard's resignation from politics in 2001 but before Jean Charest's PLQ government came to power in March 2003 thereby creating the National Assembly of Québec's Thirty-Seventh Legislature. These policies provide the legislative context in which much of the observations and analyses in the following substantive chapters take place.

<u>Bill 145</u>

One of the policies generated from the PQ's 'white paper' that was first implemented in the province was an affordable day care program. The affordable day care program was intended to be made available to all children under the age of four at a nominal cost to parents. 'In September 1997, Québec was the first jurisdiction in North America to institute universal child care as part of an overall family support program with the goals of increasing capacity of the system and facilitating access' (Kohen et al., 451). Bill 145 *Loi sur le ministère de la Famille et de l'Enfance et modifiant la Loi sur les services de garde à l'enfance*, was introduced to the National Assembly of Québec in May 1997 and was adopted on June 19, 1997.

Bill 145 had the stated purposes of providing Québécois families with an innovative day care service that would cost $5-a-day for all children regardless of their family's income. The bill also had the purpose of creating a ministry specifically for Children and Families and of creating a parliamentary committee for Children and Families (National Assembly of Québec, s: 2-4). On the day of the bill's adoption in 1997 Pauline Marois stated:

> Le livre blanc rendant publique cette politique familiale en janvier dernier [1996] a généré de nombreuses réactions, dont la plupart ont été positives. De nombreux groupes ont salué la vision et le virage majeur pris par le gouvernement du Québec. Il faut savoir, M. le Président, que le gouvernement du Québec dépense per capita, par enfant, plus du double de l'Ontario et plus du triple de la très riche Colombie-Britannique pour venir en aide aux enfants et à leur famille. Nous parlons d'une somme de 2 800 000 000 $ par an, 1 300 000 000 $ sous forme de crédits d'impôt et 1 500 000 000 $ sous forme d'aide financière.
>
> Malgré le contexte budgétaire difficile et la poursuite de l'objectif zéro, le gouvernement a décidé de faire un effort supplémentaire en injectant près de 64 000 000 $ de plus que prévu et surtout, surtout, en énonçant cette politique familiale que la population attendait. Pourquoi, M. le Président? Pourquoi accorder tant d'importance à des programmes qui, somme toute, existent déjà? Pour des raisons de cohérence et de vision de l'avenir du Québec. Les états généraux de l'éducation ont, partout à travers le Québec, entendu ce souhait d'une politique de la petite enfance, et l'on parlait d'aide aux familles, d'accès à des services de garde diversifiés, de la

nécessaire intervention éducative dès les premières années de l'enfant. (National Assembly of Québec, t: 3)

What this example shows is that, in the context of family policy, Québec legislators can compare the amount that they spend on families and children to the amount that other provinces spend on social policies that target families and children. This has the effect of promoting Québec as a nation that has families' interests as well as 'Québec's future' at its heart.

The social democratic objectives of the white paper policies were also made visible in the context of gender equality. It was stated publicly that universal day care had the purposes of encouraging more women to seek paid employment after the birth of a child rather than being 'forced' to stay at home to care for children. During the public debates on Bill 145, PQ member Jean-Claude St-André responded to comments made by members of the *Conseil du statut de la femme*:

> Combien de femmes m'ont dit que, suite à une grossesse, elles avaient perdu leur emploi ou elles avaient été obligées de quitter leur emploi, suite à des pressions de leur employeur, malgré les chartes des droits et des libertés qui existent pourtant. Nous autres, on sait à quel point c'est difficile à démontrer en droit. Combien de femmes, malheureusement encore aujourd'hui, décident de rester à la maison plutôt que d'aller sur le marché du travail parce qu'elles ne peuvent pas s'occuper de leurs enfants, parce qu'elles estiment qu'en étant sur le marché du travail elles ne peuvent pas s'occuper de leurs enfants adéquatement?
>
> D'après moi, c'est une question qui m'apparaît particulièrement importante et on constate, encore une fois, que trop peu d'hommes se posent ce genre de questions-là. (National Assembly of Québec, s: 14).

Thus, the policy of providing affordable day care was presented by the bill's authors as being designed to both tackle gender discrimination and encourage work-life balance for all citizens regardless of sex. It was argued that the bill would do so by providing primary caretakers (typically women) with an alternative to staying at home with a child until the child is of age to attend school.

Bill 112

In November 2000 a motion committing the Parti Québécois government to a strategy to combat poverty was adopted by the National Assembly of Québec (Noël, 2002: 3). In January 2001, after expressing many doubts about adopting a law that acted directly on poverty, Lucien Bouchard resigned and Bernard Landry took over the leadership of the Parti

Québécois (Noël, 2002: 3). Bernard Landry used the legislation of the law against poverty as an immediate assertion of Québec sovereignty and social democracy in the province (Noël, 2002: 3).

On December 13, 2002, only four months before Bernard Landry's Parti Québécois was replaced by Jean Charest's Parti Libérale du Québec, the National Assembly of Québec unanimously adopted Bill 112, 'a framework law that included a *National Strategy to Combat Poverty and Social Exclusion*, a fund to support social initiatives […] and an Advisory Committee on the Prevention of Poverty and Social Exclusion' (Noël, 2002: 1). This bill made poverty reduction an explicit policy priority and, thus, was 'a significant political innovation' (Noël, 2002: 1). Alain Noël suggests that the Parti Québécois' objective at the end of the twentieth century was to re-infuse the party's 'traditional social-democratic orientations' with new social and economic objectives to be accomplished through the tri-partite collaboration of business, trade unions and the state (Noël, 2002: 1). Emphasis was placed on Québec's 'third sector,' that is, on Québec's social economy in order to make visible the pervasive problems of poverty, especially among women and the inhabitants of lower-income neighborhoods (Noël, 2002: 2).

Québec's social economy, it is argued, had a significant impact on the specific area of 'citizenship building' (Shragge et al., 2001). Informed by developments in Québec, particularly over the past half-decade, researchers have considered the social economy's impact on three concepts: citizenship –namely, rights and responsibilities– access to services, and feelings of belonging (Shragge et al., 2001: 1). Shragge et al. provide the reader with many definitions of 'social economy,' however, that most widely adopted in Québec (i.e. The *Conseil wallon de l'économie sociale*'s definition) is defined as follows: 'Social economy activities are those respecting the principles of: service to members or the collectivity as an end; autonomous management; democratic decision making; the primacy of people and labour over capital in dividing surpluses; and participation, empowerment and individual and collective responsibility' (Shragge et al., 2001: 4).

The significance of this new 'social discourse' on the social economy in Québec, Noël maintains, became obvious in 1996 when the Parti Québécois government in power convened two conferences on the economy and employment. Community and social groups participated in both the *Conférence sur le devenir social et économique du Québec* and the *Sommet sur l'économie et l'emploi* (Noël, 2002 : 2). Poverty was one of the main issues at both of these conferences and from these conferences 'new policies […] gained recognition

by government officials' (Noël, 2002: 2). The leader of a Catholic community group came up with the initial idea of a framework law to eliminate poverty (Noël, 2002: 2). By 1998 the idea was being actioned by a coalition made up of religious organizations, women's groups, social assistance recipients, trade union groups, anti-poverty groups and student organizations (Noël, 2002: 2). One of the results of this lobby was the legislation and implementation of Bill 112, which represented an attempt to turn such concepts as poverty reduction and social equality into concrete policies. These policies, moreover, also served the PQ government with the purpose of addressing the Québécois nation as an international leader in the legislation of policies aimed at poverty reduction.

The explanatory notes for Bill 112 show that its objective is to 'guide the Government and Québec society as a whole towards a process of planning and implementing actions to combat poverty and counter social exclusion and strive towards a poverty-free society' (Québec, Bill 112: 2). The bill defines poverty as 'the condition of a human being who is deprived of the resources, means, choices and power necessary to acquire and maintain economic self-sufficiency or to facilitate integration and participation in society' (Québec, Bill 112: 6). The preamble to the bill, furthermore, shows that 'the effects of poverty and social exclusion impede the economic and social development of Québec society as a whole and threaten its cohesion and equilibrium' (Québec, Bill 112: 5).

The National Strategy set forth in Bill 112 was 'intended to progressively make Québec […] one of the industrialized nations having the least number of persons living in poverty, according to recognized methods for making international comparisons' (Québec, Bill 112: 6). Bill 112 named 5 axes along which the government and society as a whole would orient its actions in order to fulfill the goals laid out in the national strategy. They were: (1) preventing poverty and social exclusion, with a focus on developing the potential of individuals; (2) strengthening the social and economic safety net; (3) promoting access to employment and increasing the attractiveness of work; (4) promoting the involvement of society as a whole; and (5) ensuring consistent and coherent intervention at all levels (Québec, Bill 112: 7). Bill 112 was represented as being family-oriented and dedicated to 'recognizing the family as the basic unit of personal and social development and, while respecting the role of parents, supporting families with dependent children that are at risk of long-term poverty through early and integrated intervention aimed at giving the families access to a range of services and programs adapted to their needs and to those of their children' (Québec, Bill 112: 7).

During the legislation of Bill 112 on 1 October 2002, PQ Minister of Families and Children, Mme. Nicole Léger, claimed that:

> J'éprouve ce sentiment profond de fierté parce que le projet de loi n° 112 et les moyens qu'il institue favorisent la mobilisation de toutes les forces vives qui désirent -qui désirent- voir le Québec poursuivre sa marche vers une société plus équitable où toutes les citoyennes et tous les citoyens pourront vivre dignement et participer à la prospérité du Québec de demain.
>
> Tout d'abord, je voudrais rappeler les grandes étapes qui ont conduit le gouvernement du Québec vers le dépôt de ce projet de loi unique et de la stratégie nationale de lutte contre la pauvreté qui en découle. Au printemps 2001, le premier ministre du Québec, M. Bernard Landry, nous confiait la responsabilité de mener une importante démarche de mobilisation et de validation auprès des entreprises, des syndicats, des régions et des organismes communautaires qui côtoient les personnes démunies au quotidien. Ainsi, à l'automne 2001, avec le soutien des conseils régionaux de développement, nous sommes allés dans les 17 régions du Québec afin d'échanger avec les représentants de tous ces groupes. Ceux-ci étaient appelés à réagir et à valider le document d'orientation intitulé *Ne laisser personne de côté!* et à s'en inspirer pour identifier leurs priorités régionales en matière de lutte contre la pauvreté.
>
> […]
>
> Avec le dépôt de ce projet de loi, le Québec se montre plus solidaire que jamais à l'endroit des personnes qui ont eu moins de chance dans la vie. Concentrer nos efforts pour améliorer la situation des plus démunis constitue un choix, un choix d'avenir pour le Québec. C'est un investissement, pas une dépense inutile. Notre préoccupation première est d'améliorer les conditions de vie des plus pauvres, favoriser leur autonomie et bâtir un Québec meilleur où chaque personne à sa place, peut mener une vie digne, peut participer, selon ses capacités, à la vie sociale et au progrès collectif, et celà, tout au long de sa vie. (National Assembly of Québec, r: 5)

Here, again, the social democratic objectives of the Parti Québécois are represented by a PQ minister's claims to the improvement of Québec's future. Québec's future, Nicole Léger claimed, would be much more secure if individual Quebecers' quality of life was improved.

Furthermore, on the same day PLQ representative, M. Christos Sirros claimed that the PLQ would forgo any partisanship that might interfere with the PLQ's support and legislation of Bill 112:

> Et il y a aussi un sentiment d'étouffement que beaucoup de nos concitoyens ressentent: étouffement par l'étau de la pauvreté, pour un grand nombre de nos citoyens qui vivent avec les moyens du bord; étouffement par une ponction fiscale, la plus lourde au Canada et en Amérique du Nord, de la grande majorité de la classe moyenne; étouffement et frustrations de la part de tous, j'ajouterais, par l'incapacité que les gens voient et sentent et vivent de l'État d'être au service de ses concitoyens.

Et c'est ainsi que, pour notre part, nous avons choisi de nous interroger profondément sur le sens de notre engagement politique et l'action qu'on doit porter par rapport à cette situation. Notre réflexion nous a conduits à faire, si vous voulez, notre mea culpa, à nous reprendre et à mettre devant les Québécois de façon claire et concrète les choix que nous préconisons et de les asseoir aussi sur l'exposé clair de nos valeurs. On en a d'ailleurs largement parlé en fin de semaine dernière.

De plus, avant de venir ici, nous avons eu de multiples occasions de traiter de cette question avec divers intervenants et auprès de diverses instances, des discussions multiples avec le Collectif pour une loi sur l'élimination de la pauvreté, des échanges en commission parlementaire avec la ministre ou les ministres. Lors des débats que nous avons initiés au salon bleu, en passant par nos instances de parti et en faisant même une tentative de rejoindre les militants du Parti québécois, nous avons toujours fait la promotion de notre volonté de voir le dossier de la pauvreté devenir effectivement une priorité pour la société québécoise. (National Assembly of Québec, r: 8-9)

This shows that, beyond partisanship, legislators in Québec shared a common interest in legislating and implementing policies with social democratic objectives that improved both individual Quebecers' quality of life and the quality of the society as a whole. Also, beyond partisan interests, both parties' members expressed that the role of the Québécois 'state' in supporting its members should be strong and visible. It should be reiterated again that at no point during the legislation of Bill 112 did the concepts of demography or fertility play an important role in the public negotiations of the policy.

<u>Bill 140</u>

The history of the Québec Parental Insurance Plan began in 1996 when community and social groups participated in the *Sommet sur l'économie et l'emploi*, a summit at which Québec's law against poverty and social exclusion was also originally tabled. It was at this event that 'Québec employers came out in favour of implementing a Québec parental insurance plan,' a provincial program for maternity and parental leave (Ministry of Employment, b). This plan, it was claimed, would effectively replace the maternity and parental leave benefits made available to Canadians under the federally legislated *Employment Insurance Act* (EIA). It would also improve upon federal legislation by extending benefits to more women and making remuneration for new parents significantly higher than that offered under the EIA. Because the idea was widely accepted by trade union workers and social partners, a coalition called the *Regroupement pour un régime d'assurance parentale* was formed. The coalition represented 'citizens concerned about the living conditions of families' (Ministry of Employment, b).

That same year members of the National Assembly of Québec informed federal legislators in Ottawa of the proposed parental insurance plan and their intentions to challenge the constitutional status of maternity and parental leave. At the time the policy was conceived (1996) and even at the time of writing (2010-2011), maternity and parental leave is regarded by the Supreme Court of Canada as belonging to the legislative powers of the federal government. In December 1996 the federal government showed that it was prepared to negotiate a plan with the PQ, the political party in power in the Province of Québec between 1994 and 2003. Because parental leave fell (and still falls) under the federal *Employment Insurance Act*, it was necessary to seek the approval of the Canadian federal government before proceeding with the legislation of the new plan.

In June 1997 the *Centrale de l'enseignement du Québec* (CEQ), an organization of trade unions now known as the *Centrale Syndicale du Québec* (CSQ), published a memo presented to the *Commission des affaires sociales* during public negotiations of Bill 145, *An Act from the Ministry of Family and Childhood modifying the Bill on day care services*. In this memo the CEQ emphasized the fact that it supported a parental insurance regime but that at the time (1997) it was unclear what the outcome of federal and provincial negotiations on the matter would be (CEQ, 1997: 2-3). Support from social and labour organizations such as the CSQ encouraged many political representatives in the National Assembly of Québec to push forward with the legislation of the new parental leave scheme even before final consultations with the federal government took place.

The CSQ also played an important role at the 1996 summit meeting. In partnership with the *Confédération des syndicats nationaux* (CSN) and the *Fédération des travailleurs et travailleuses du Québec* (FTQ), the CSQ presented what it believed to be the 'elements of a national employment policy,' which included the extension of parental leave and the reduction of hours in a normal work week (CSQa). These three groups later represented the majority of workers and citizens who joined the coalition known as the *Regroupement pour un régime québécois d'assurance parentale*. The purpose of the coalition was to put pressure on the government of Québec to legislate and to implement Bill 140, (then an incomplete policy on parental insurance). Since 1997, the regime had been inscribed in the Parti Québécois' 'Livre blanc sur la politique familiale du gouvernement québécois' (CSQb).

A more extensive list of organizations represented by the coalition included the *Association féminine d'éducation et d'action sociale* (AFEAS), the *Alliance du personnel professionnel et*

technique de la santé et des services sociaux (APTS), the *Centrale des syndicats démocratiques* (CSD), the *Collectif des femmes immigrantes du Québec*, the *Conseil d'intervention pour l'accès des femmes au travail* (CIAFT), the *Fédération des associations de familles monoparentales et recomposées du Québec* (FAFMRQ), the *Fédération des femmes du Québec* (FFQ), the *Fédération des infirmières et infirmiers du Québec* (FIIQ), the *Fédération des travailleurs et travailleuses du Québec* (FTQ), the *Fédération québécoise des organismes communautaires famille* (FQOCF), the *Regroupement Naissance-Renaissance* (RNR), the *Syndicat de la fonction publique du Québec* (SFPQ), and the *Syndicat de professionnelles et professionnels du gouvernement du Québec* (SPGQ) (CSQc).

Many of these organizations represented women and families. Their members' interests lay primarily in work-life balance initiatives based on improving the quality of life of workers, especially those with young families. Many of the trade unions such as the CSN and the FTQ were also supporters of either nationalist or sovereigntist movements in Québec. The members of many of these organizations eventually made presentations to the National Assembly of Québec during the two legislative processes of Bill 140 both under the PQ's government in 2001 and the PLQ's government in 2005. Their presentations and memos often highlighted the practical issues and the social circumstances of parenting and work-life balance that Quebecers faced at the turn of the twenty-first century.

Some of the social and political actors who played important roles in the evolution of the debates concerning the QPIP included members of both the sovereigntist Parti Québécois (PQ) and the federalist Parti Libérale du Québec (PLQ). Apart from these political party actors, key social organizations that were represented in the National Assembly during the legislation of the QPIP included: the *Institut de la recherche en politiques publiques* (Institute for Research on Public Policy) (IRPP); trade unions such as the *Centrale des Syndicats du Québec* (CSQ), and the *Centrale des Syndicats Nationaux* (CSN); organizations that support families and workers such as *Force Jeunesse et Mouvement pour les bébés du millénaire*, the *Fédération des unions de familles*, the *Regroupment inter-organismes pour une politique familiale au Québec,* and the *Fédération des parents adoptants du Québec*; organizations that support entrepreneurs, capital and employers in Québec such as the *Conseil du Patronat du Québec* and the *Alliance des manufacturiers et des exportateurs du Québec*; the governmental organization of the *Commission des droits de la personne et des droits de la jeunesse*; and also an association of many trade unions and social organizations that coalesced for the specific purpose of negotiating a parental leave policy in the National

Assembly, the *Regroupement pour un régime Québécois d'assurance parentale*. These organizations and their roles in the legislation of the QPIP are important to the reader's understanding of substantive chapters 5, 6 and 7. These chapters will include examples of what these organizations' representatives have said on the public record with regard to Bill 140 *An Act Respecting Parental Insurance*.

These organizations represented a wide range of government, non-government, social and business-oriented interests. The IRPP is an independent, Canada-wide, non-profit organization that seeks to improve public policy in Canada by meeting with policy-makers at various levels of government throughout Canada and Québec and by proposing changes to public policy legislation in the interests of non-governmental organizations. The CSN and the CSQ are both trade unions with general interests in workers' rights and the amelioration of poverty, social inequality and social exclusion in the province. The CSN was founded in 1921 and has much more intimate connections with the sovereignty movement in Québec from the 1970s onward whereas the CSQ represents teachers, caregivers, day care workers and health care workers, all of whom have a vested interest in families and the care that is provided for them by the Québec government.

Breton and Pellerin (2001) argue that from the Quiet Revolution onward religious orders in Québec, which were once tied to Duplessis's Union Nationale and once had a strong influence on Quebecers' conceptualizations of society, were replaced by trade unions (33-4). During the 1930s trade unions, which were highly discouraged by Duplessis, were not partisan and tended to be pan-Canadian (Rouillard, 2004: 74). However, during the 1950s, Québec established its own provincial unions, distancing its own organizations from pan-Canadian ones (Rouillard, 2004: 47). The trade unions' mission in Québec was viewed as having a dual purpose in Québec society: to be both nationalist and socialist (Breton and Pellerin, 2001: 45). In the 1970s and 1980s social democracy in Québec was represented in a particularly nationalist context (Breton and Pellerin, 2001: 47). That is, according to Güntzel, social problems in the province were scarcely perceived in anything other than 'nationalist' terms (1993: 27). The strongest syndical patronage came from the separatist Parti Québécois. The CSN in particular gave the PQ party its formal endorsement of Québécois independence (Güntzel, 1993: 1). The CSN submitted to the ideological proposition that independence was a precondition of a socialist society (Güntzel, 1993: 130), and the organization supported such PQ measures as Bill 101 and, in the late 1990s, the PQ's white paper policies.

Force Jeunesse is an organization that formed in 1998 to represent young workers in the province of Québec. Under its organization another group of people that was particularly interested in promoting the QPIP formed the *Mouvement pour les bébés du millénaire* in order to improve the work-life balance initiatives offered to young workers in the province of Québec and to make participants in the labour market aware of the problems facing young families who are believed to want to have children. The *Conseil du Patronat du Québec* and the *Alliance des manufacturiers et des exportateurs du Québec* represent the specific interests of employers and capitalism in the province. The purpose of the *Alliance des manufacturiers* is to stimulate competition within industries as well as the growth of exports from Québec. The *Conseil du Patronat* keeps the provincial as well as the federal governments aware of businesses' and enterprises' needs in the context of globalization; the organization values growth, productivity and entrepreneurship from its members.

The *Commission des droits de la personne et des droits de la jeunesse* is a government-funded body that is responsible for ensuring that public policy as well as law-making in Québec is subjected to the Charter of Human Rights and Freedoms; the organization makes recommendations to the government in cases where legislation needs to be changed to meet criteria in the Charter. All of these organizations as well as many more, presented memoranda to the National Assembly either in 2000-1, during the legislation of Bill 140, or 2005, during the legislation of Bill 108, or both in 2000-1 and 2005. They represent the diversity of groups from which it was possible to collect data in order to analyze what issues both social and political actors were taking into account as they legislated the QPIP both in 2001 and 2005.

Plans to implement the QPIP when it was first legislated in 2000-1 were challenged by the federal government's unwillingness to devolve the powers of the *Employment Insurance Act*. Replacing people's incomes in the form of maternity or parental leave, as it was established by federal legislative and judicial actors, was to remain the legislative prerogative of the federal government. Also, there were questions of how much money the federal government was willing to give to the province to kick-start its new family programs. In 1999 federal legislators in Ottawa responded to Québécois representatives' demands for improved maternity/parental leave benefits by announcing a plan to improve maternity benefits, parental benefits and adoption benefits for all Canadians under the federal *Employment Insurance Act*.

Canada has had regular employment insurance benefits available to Canadian workers since 1940. However, it was not until 1971 that maternity benefits were introduced as part of this legislation through Bill C-229 (Phipps, 2006: 7-8). The provision of wage replacement programs for women became more widespread when women's labour force participation rates climbed steeply at the end of the 1960s making interrupted paid work among women the norm in industrialized states (Phipps, 2006: 7-8). Canadian maternity and parental leave benefits have been administered through federally legislated EIA programs since 1971 although it was not until 1996 that the constitutional parameters of this administration were challenged by the province of Québec on the basis that the federal government's provision of maternity and parental leave benefits violated the Canadian Constitution because they were essentially *social* benefits that fell within provincial jurisdiction. The federal government, conversely, 'argue[d] that these benefits [we]re fundamentally an income-replacement program for workers with newborn or newly-adopted children' (Phipps, 2006: 11, n.12).

In 1996 the federal *Employment Insurance Act* (Bill C-12) replaced the previous *Unemployment Insurance Regulations*. Under the EIA the federal insurance system changed insured workers' eligibility from one based on weeks of work, with a weekly minimum and maximum on insurance coverage, to a total 700-hour minimum requirement (Phipps, 2006: 9). Furthermore, according to amendments to the EIA (Bill C-32) passed in parliament in June 2000 (after the federal government was approached by the Québec provincial government regarding a provincial plan), some of the *Employment Insurance Act* regulations regarding the provision of maternity leave were changed. The most prominent of the modifications made to the maternity and parental leave benefits program at this time were: (1) an extension of the benefits period from 10 to 35 weeks, and (2) the condition for eligibility was reduced from 700 to 600 working hours (Phipps, 2006: 10). These changes came into effect on December 31, 2000. One of the objectives cited by the Canada Employment Insurance Commission for the significant changes to the program was 'to allow parents more time to spend at home with their newly born or adopted children' (CEIC, 2003: 53; quoted in Phipps, 2006: 10).

This, however, did not discourage officials in Québec from pushing forward with the new Québec Parental Insurance Plan. Then PQ Minister of Families and Children, Pauline Marois, presented Bill 140 to the National Assembly of Québec on 6 June 2000. At the time of its presentation the bill had the objective of 'according to every admissible worker, the

benefits of a maternity leave and also the following familial leaves: a paternity leave and a parental leave, taken consecutively after the birth of an infant, and an adoption leave for the adoption of a minor' (National Assembly of Québec, a: 1-2 [Translation mine]).

The administration of the plan was, at that point, conferred upon the *Régie des Rentes du Québec* –a public enterprise in charge of the administration and operation of pension plans and financial planning for retirement– and the Ministry of Families and Children was given the responsibility of overseeing its implementation (National Assembly of Québec, a). During a press conference on 6 June 2000, the day the bill was presented to the National Assembly, Mme. Marois described the plan as a set of parental leave initiatives that are 'adapted to the realities of the labour market today.' It was described, moreover, as a means of 'permitting parents that want to, to spend more time with their children, especially in the first few weeks' (National Assembly of Québec, h [Translation mine]). Thus, when the bill was presented to the National Assembly it had much the same purpose as the maternity and parental leave benefits offered under the federal EIA program.

Bill 140 was, thus, also originally conceived on much of the same basis as the other family policies that belonged to the PQ's white paper policy agenda. According to trade unionists, social activists and politicians, it came into existence for the purpose of meeting the specific socio-economic needs set out by its advocates. Those socio-economic needs included: work-life balance objectives, employment equity, and social equality for families. When the plan was implemented, it was claimed to be 'More generous, more flexible, more accessible, and, more for Dad' than the benefits available to Canadians under the federal *Employment Insurance Act* (Ministry of Employment, a).

Federal EIA maternity and parental leave benefits can be compared with the parental leave benefits provided to claimants under the new Québec Parental Insurance Plan to reveal several key differences. The QPIP includes four types of potential benefits. They are: Maternity benefits, Paternity benefits, Parental benefits, and Adoption benefits. There is also a supplement for low-income families whose net family income is under $25,921 (Ministry of Employment, a). Under the Québec Parental Insurance Plan new parents can choose between two options in order to take their leave from paid employment after the birth of a child. These two options under QPIP legislation allow parents to choose between having more time off but lower wage replacement rates based on their previous income or less time off with significantly higher wage replacement rates. Thus, 'under the basic plan, eligible biological mothers are entitled to 18 weeks of maternity benefits paid at 70 percent of

previous earnings; 7 weeks of parental benefits replaced at 70 percent and an additional 25 weeks replaced at 55 percent can be divided between parents as they choose; 5 weeks replaced at 70 percent are available only to the father' (Phipps, 2006: 10-1). Alternatively, 'Under the special plan, eligible biological mothers are entitled to 15 weeks of maternity benefits with 75 percent replacement of previous earnings; 25 weeks of parental benefits compensated at 75 percent can be split between mother and father as they choose; 3 weeks of benefits compensated at 75 percent are available only to the father' (Phipps, 2006: 11).

One of the most significant differences between the QPIP and the EIA benefits is the maximum insurable income which was increased at the time of the bill's implementation to $57, 000 (CDN), instead of the federal program's $39,000 (CDN) (Phipps, 2006: 11). This made the Québec plan much more generous for individuals whose incomes were equal to or greater than $57,000. Another major difference between the benefits offered under the QPIP and the EIA is that the Québec program offers beneficiaries a choice between two plans, one of which includes a shorter period of leave from paid employment with a higher proportion of an individual's overall wage remuneration, or a longer period of paid leave with a smaller proportion of an individual's overall wage remuneration. Furthermore, the QPIP was meant to be accessible to more people, including self-employed workers who were not eligible for EIA benefits at the time of the QPIP's legislation and implementation. Also, instead of having to meet the minimum requirement of 600 work hours in order to qualify for EIA benefits, under the Québec plan, individuals would only need insurable annual incomes of $2000 (CDN) or more, a minimum requirement that would be much more accessible for individuals such as full-time students who might only work during summer months. Finally, the Québec plan was designed to give exclusive paternity benefits to fathers equal to that of mothers, unlike the federal EIA program whereby the number of weeks that are allocated to men who take paternity leave is significantly less than the number of weeks that are allocated to women who take a maternity leave.

When the initial press conference was given by PQ representatives to announce the legislation of Bill 140 *An Act Respecting Parental Insurance* on 6 June 2000, Pauline Marois promised the Québécois public that the plan would be fully implemented by the 1st of January, 2002 (National Assembly of Québec, h). However plans to proceed with the implementation of the bill were delayed by failed negotiations with the federal government over the constitutionality of being exempt from the federal *Employment Insurance Act*. The Attorney General of Québec, thus, went before the Provincial Court of Appeal to debate the

constitutional validity of the benefits granted under the federally legislated *Employment Insurance Act*. According to the *Conseil de Gestion de l'assurance parentale*, a committee that took over the role of managing the plan from the *Régie des Rentes du Québec* under the PLQ government from 2003 onward:

> [T]he Québec government asked the Court of Appeal of Québec to rule on the constitutionality of the maternity, parental and adoption benefits granted under the Employment Insurance Act. In a unanimous decision handed down on January 27, 2004, the Court of Appeal stated that sections 22 and 23 of the Employment Insurance Act encroach on provincial jurisdiction and exceed the Government of Canada's jurisdiction. The federal government appealed to the Supreme Court of Canada. On October 20, 2005, the unanimous ruling of the Supreme Court of Canada quashed the 2004 Québec Court of Appeal ruling. (CGAP)[5]

Thus, after the Province of Québec won the appeal in the provincial appellate court, the decision that granted the Province of Québec jurisdictional sovereignty over the legislation of maternity and parental leave benefits was then overturned by a Supreme Court ruling.

The ruling passed down by the Supreme Court of Canada as a result of the judicial dispute that ensued between the Attorney General of Canada and the Attorney General of Québec stated that:

> The government of Québec submitted questions concerning the constitutional validity of ss. 22 and 23 of the Employment Insurance Act to the Court of Appeal. In essence, these provisions allow a woman who is not working because she is pregnant, and a person who is absent from the workplace to care for a newborn or an adopted child, to receive employment insurance benefits. The Court of Appeal issued an opinion to the effect that ss. 22 and 23 are unconstitutional because the matters to which they apply are under provincial jurisdiction.
>
> Held: The appeal should be allowed. Sections 22 and 23 of the Employment Insurance Act are constitutional.
>
> It was open to Parliament to enact ss. 22 and 23 based on the jurisdiction assigned to it by s. 91(2A) of the Constitution Act, 1867 in relation to unemployment insurance. The provision of income replacement benefits during maternity leave and parental leave does not trench on the provincial jurisdiction over property and civil rights and

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[5] Sections 22 and 23 of the Employment Insurance Act can be read in their abridged form as:

22. (1) Notwithstanding section 18, but subject to this section, benefits are payable to a major attachment claimant who proves her pregnancy.

23. (1) Notwithstanding section 18, but subject to this section, benefits are payable to a major attachment claimant to care for one or more newborn children of the claimant or one or more children placed with the claimant for the purpose of adoption under the laws governing adoption in the province in which the claimant resides. (Federal Government of Canada: 23-4)

may validly be included in the Employment Insurance Act. (Supreme Court of Canada).

Although, given this information, it would appear that the legislation and implementation of the Québec Parental Insurance Plan was made constitutionally impossible because of the Supreme Court ruling, it is important to note that between the Québec Appellate Court's decision in 2004 and the Supreme Court of Canada's decision in 2005, an administrative agreement was struck between the federal and provincial governments. This administrative agreement allowed Québec legislators to proceed with the legislation and implementation of the QPIP without penalty. This agreement is typical of the way in which political negotiation can be used to override juridical interpretations of the Constitution in Canada.

On March 1, 2005 (before the federal government successfully appealed the province's claim to unconstitutionality), Québec and Ottawa signed the *Canada-Québec Final Agreement on the Québec Parental Insurance Plan*. Although on October 20, 2005 the Supreme Court of Canada rejected Québec's argument that the maternity, parental and adoption benefits provided under the *Employment Insurance Act* encroached upon the province's jurisdiction over the property and civil rights of Québec's inhabitants, the decision did not replace the already binding legislation of the QPIP –which was passed in the National Assembly on 22 November 2000 by the PQ government– because the Final Agreement took precedence over the Supreme Court ruling (Ministry of Employment, b). By the time that the administrative agreement was struck in 2004, the Parti Québécois had been replaced as the governing party of Québec by the Parti Libérale du Québec in a 2003 election. Thus Bill 140 was re-legislated with a few general amendments as Bill 108 and passed by Jean Charest's PLQ government on 15 June 2005, almost 5 years after it had been passed in the National Assembly by the PQ.

The *Canada-Québec Final Agreement on the Québec Parental Insurance Plan* is representative of a history of administrative agreements or 'opting out agreements' that have taken place between individual provinces and the Canadian federal government. Richard Simeon argues that social policy developments in the 1960s such as the establishment of Canada and Québec Pension Plans as well as Canadian medicare, evolved within a 'massive expansion of executive federalism' (2005: 84). There was, at this time, a rise in intergovernmental conferences and ministers' meetings, which lent themselves 'to a newer model of assertive provinces claiming equal partnership with the federal government, and resisting perceived "intrusions" into their jurisdiction' (Simeon, 2005: 84). These

conferences and meetings of ministers, Simeon suggests, 'became the arena in which the fundamental questions of Québec's role in the federation came to the fore, in the search for non-constitutional asymmetry, reflected in the "opting out arrangements" of 1964, the establishment of two pension plans –the CPP for the nine provinces and the QPP for Québec– and in other areas' (2005: 84-5).   The administrative agreement that made the legislation of the QPIP possible, like previous 'opting out arrangements,' does not represent a formal constitutional arrangement. Rather, it is a kind of intergovernmental contract that makes it possible for any one province not to participate in the constitutionally recognized legislation to which the rest of Canada's provincial and territorial jurisdictions are subject. This kind of agreement can be overturned by the Canadian parliament or challenged by an individual in the Supreme Court of Canada at any time; however, in practice, this is highly unlikely.

On January 1, 2006, the new 'Québec Parental Insurance Plan' took effect in the province. Implemented by the Québec Liberal Party's Ministry of Employment and Social Solidarity led by Michelle Courchesne, this plan was described as 'a pro-family measure' and as 'a concrete way for workers to balance family and work responsibilities.' There were, however, some important differences in the ways that Pauline Marois' Ministry of Families publicized the plan in 2000 and the ways in which Michelle Courchesne's Ministry of Employment publicized the plan in 2006. According to the PLQ's Ministry of Employment and Social Solidarity (at the time of the bill's implementation in January of 2006), the QPIP was designed to (1) financially support new parents, (2) *to encourage them to have children*, and (3) to help them spend more time with their children in the first months of their life (Ministry of Employment and Social solidarity, a [Emphases mine]). The second feature of the plan's design: 'To encourage Quebecers to have children,' was not one of the objectives of the PQ's original white paper on family policy.

Michelle Courchesne's description of the bill did not include the part of the definition of parental leave that suggests that such a measure is intended to prevent the parents of young children from encountering financial hardship due to the costs of raising children. Thus, instead of being articulated as a social program that facilitated work-life balance and that focused on equality of opportunity, the Québec Parental Insurance Plan, under the leadership of the Parti Libérale du Québec, was presented as an insurance program. One of the stated objectives of this insurance plan, moreover, was to encourage Quebecers to have children. Although Québécois representatives had previously argued that parental leave was a social

policy and not an income replacement program, the Québec Parental Insurance Plan was implemented and administered as an insurance plan in much the same way as the federal *Employment Insurance Act* (EIA) benefits.

The Population Question

We have seen how during the 1990s the Québécois government came out with a social policy agenda in the province that targeted Québécois families for the purpose of reducing certain social problems as well as countering the Canadian federal government's retrenchment of welfare state policies, especially in the areas of family policy. This had the effects of both legislating new social policies in the Québec National Assembly and of furthering Québécois nation-building objectives such as the growth of national solidarity and legislative sovereignty over matters that were once subject to federal legislation. However, the legislation and implementation of the Québec Parental Insurance Plan occurred differently from the other social policies that were derived from the PQ's 1996 white paper. This is primarily because the provincial government encountered problems during the legislation of the program with the federal government. These problems concerned jurisdictional battles over legislative sovereignty. These jurisdictional battles, it will be argued, set the legislation and implementation of the QPIP in a slightly different light from the other social policies that were legislated by the PQ around the same historical time period.

One of the results of the jurisdictional battles that ensued over the legislative sovereignty of maternity and parental leave benefits is that the QPIP had to be re-legislated for implementation by the PLQ once an agreement with the federal government had been struck and the PQ had been voted out of the National Assembly. Another major difference between the legislation of the QPIP and the other white paper policies is that it had to be much more vigorously defended by provincial political actors against the federal government. This, it will be argued, made issues surrounding political sovereignty, legislative autonomy and sub-state 'nation-building' much more visible. One of the ways in which political sovereignty, legislative autonomy and sub-state 'nation-building' were made more visible by political actors, it will be argued, was by emphasizing the potential role of parental leave in increasing the birth rate and overall population numbers in Québec. In the course of the jurisdictional battles that took place over the legitimacy of the QPIP, issues relating to population, population growth and decline as well as the relationship of population to national solidarity

and collective identity, were made much more visible than they were during the legislation of any other of the PQ's white paper policies. This can be substantiated by comparing social and political actors' public discussions of Bill 140 with social and political actors' public discussions of the PQ's other white paper policies.

During a press conference on 15 May 1997, Pauline Marois detailed the provincial government's plan to reform family policy in the province of Québec. Before explaining what each project entailed she very strongly confirmed that '[…] l'effort budgétaire du Québec pour venir en aide aux enfants est de loin le plus important au Canada. En fait, per capita, c'est du triple de l'effort de la Colombie-Britannique et près du double de celui de l'Ontario qui sont évidemment les provinces les plus riches' (National Assembly of Québec, b: 1). Perhaps more importantly though, the minister outlined very clearly what her government's objectives were for the new Québécois family policy. During the press conference on 15 May 1997, Marois stated the objectives of the white paper policies which were almost repeated verbatim –and quoted above– during the adoption of Bill 145 on 19 June 1997:

> Quels sont les objectifs que l'on poursuit? […] D'abord nous voulons faciliter le développement et l'égalité des chances pour les 1 600 000 enfants du Québec. En second lieu, nous voulons permettre une meilleure conciliation travail-famille et ce, par des politiques plus équitables et aussi plus incitatives au travail dans certaines circonstances, ensuite, pour effectuer une reforme globale qui va porter à la fois sur les allocations, les services de garde, l'éducation maternelle et les congés parentaux.
>
> Et enfin, nous voulons maintenir une aide universelle tout en favorisant les familles à faibles revenues. En fait, nous trouvons comme gouvernement qu'il est important de maintenir des mesures de soutien à l'ensemble des familles pour tenir compte des besoins financiers additionnels que représente la présence d'un enfant dans la famille. C'est pourquoi près de la moitié de l'aide gouvernementale aux familles est versée sous force de crédit d'impôt. Et s'il est important que de telles mesures existent, il est aussi primordial que des mesures sélectives apportent un soutien particulier aux familles à faibles revenus pour sortir les enfants de la pauvreté. (National Assembly of Québec, b: 1-2)

Thus, after being proposed by trade unionists and employees' as well as employers' organizations, the overall plan to improve family policy and child care in the province was presented as a very practical one with the very specific intentions of reducing child poverty and giving children and families equal opportunities to participate in paid labour and early childhood education. The parental leave benefits, moreover, were meant to grant low-income parents equitable opportunities to spend more time with their young children.

However, once the proposed legislation moved to the National Assembly, its purpose often became rhetoricized not only in the context of equality of opportunity and work-life balance initiatives, but also as a means of encouraging Quebecers to have more children. Throughout the public hearings for Bill 140 under the PQ's government in 2000, the *Institut de recherche en politiques publiques/Institute for Research on Public Policy* (IRPP) was represented by Mme. Carole Vincent. The institute, Vincent reported, had had, for the past four years, a research program dedicated to family policy. It was interested, moreover, in questions concerning the reconciliation of work and family life (National Assembly of Québec, a: 53). One of PQ representative Pauline Marois's main questions for Vincent was based on the following statement:

> **Mme. Marois:** Je veux revenir sur quelque chose, puisque le vous mentionnez dans votre texte et que vous êtes un institut de recherche sur la famille, sur les politiques fiscales et familiales. Vous dites: Est-ce qu'il y a eu des études d'impact par rapport à un accroissement, par exemple, du taux de fécondité? […] *En fait, on a pris pour acquis que, dans notre grande politique familiale, l'ensemble de mesures qu'on allait mettre en place allaient à tout le moins freiner la baisse du taux de fécondité et on a un espoir qu'il soit augmenté* […] La prétention que l'on a en regardant et ayant analysé un certain nombre de situations dans les pays, particulièrement européens, auxquels on se compare mieux, si on veut, en termes de politique sociale, qu'est-ce qui peut avoir un impact sur le choix des familles quant à leur décision d'avoir des enfants ou pas, on se dit: Bon, bien, c'est un milieu de vie accueillant en soi, c'est un remplacement de revenu qui est décent et qui fait qu'on ne va pas mettre un enfant au monde dans la misère, qui fait qu'on va continuer à avoir un emploi, donc, après qu'on va avoir décidé d'avoir un enfant, qu'on va avoir les moyens d'en prendre soin, qu'on va avoir des services disponibles, des services de soins, des services de santé, des services de garde, des services éducatifs de qualité et un contexte socioéconomique, je dirais, un peu favorable. Bon. Alors, c'est l'hypothèse que l'on fait ici en disant: Ce congé-là, il vient accompagner le choix des parents. Il ne le provoquera pas nécessairement, mais au moins il l'accompagne et ne pénalise pas les parents qui décident d'avoir des enfants.
>
> […] Mais ma question, je vous la relance maintenant, vous, est-ce que vous en avez fait des analyses sur ce qui se passe à travers le monde quant à l'impact de certaines politiques familiales sur l'amélioration du taux de fécondité?
>
> **Mme Carole Vincent:** Sur le taux de fécondité précisément, pas nécessairement, mais c'est certain qu'il y a des études qui ont analysé, par exemple, plusieurs pays européens sur une longue période de temps. Donc, il a eu beaucoup de variations d'un pays à l'autre en termes d'accessibilité à différents programmes et à l'intérieur de chaque pays, là, au cours des années, et puis les études montrent que, *en fait, oui, ça a un impact sur les décisions des familles*. (National Assembly of Québec, a: 59-60 [Emphases mine])

What is evident in this quotation is that, first of all, the Parti Québécois was concerned with (a) putting a stop to the decline in fertility in the province, and (b) implementing a program

that affected people's decisions about whether or not to have children. The representative from the IRPP claimed that there were evidence-based findings that showed a positive correlation between parental leave benefits and increased fertility, confirming the PQ representative's belief that improved parental leave policy could put an end to declining fertility rates in the province. Although, as we will see in chapter 7, there are very few substantiated claims with valid evidence to show that there are social programs that do encourage parents' desire to have more children, this example serves the purpose of demonstrating the ways in which questions of population and fertility gave a different kind of meaning to legislators' public accounts of the Québec Parental Insurance Plan than they did to the other white paper policies.

During the debates in the National Assembly over Bills 140 and 108, both members of the PQ and the PLQ engaged in a public discourse whereby members of each party believed that the citizens of Québec should be given the rights and the equal opportunity to have larger families –larger families being interpreted as analogous to a stronger Québécois population. This was made evident on 12 December 2000 during the final stages of the legislation of Bill 140 when PLQ member André Tranchemontagne expressed that:

> Comme vous le savez, Mme la Présidente, depuis de nombreuses années, le Québec a diminué, au niveau du taux de natalité, d'une façon substantielle, et nous sommes maintenant parmi les provinces au monde qui ont un taux très, très bas au niveau de natalité. Et, à ce moment-là, on ne peut qu'encourager un programme de la sorte qui peut peut-être aider les familles québécoises à avoir une famille un peu plus nombreuse et assurer la relève de la population du Québec. (National Assembly of Québec, c: 7)

These types of statements that advocated plans to 'ensure the recovery of Québec's population' were corroborated by PQ members as well.

After the *Conseil du Patronat du Québec* made its presentations to the National Assembly, asking for better work-life balance initiatives from the PQ government on 2 November 2000, PQ member Nicole Léger claimed the following:

> Je fais le lien avec le taux de dénatalité au Québec. Vous savez qu'avec ce taux de dénatalité là on voit que ce qui peut aider, en tout cas, à améliorer et aider les parents à avoir des enfants, les familles à avoir des enfants, c'est d'une part par des politiques sociales, et, bon, la politique familiale du Québec, par tous ses aspects, peut contribuer en tout cas d'une certaine façon à aider les familles à avoir des enfants. (National Assembly of Québec, d: 41)

These examples substantiate the claim that once the parental leave policy was introduced to the National Assembly in September 2000, it began to be discussed in the context of 'increased birth rates' and putting a stop to Québec's 'denatality.' Thus, unlike the other pieces of legislation discussed above, Bill 140 was also presented as having population growth as one of its objectives. However, this objective, it will be argued, became more visible in the later stages of the policy's evolution by virtue of jurisdicitional battles that began to take place between the Québec provincial government and the Canadian federal government.

Once the policy was introduced to the National Assembly of Québec, it was not only political party representatives who made it clear that the parental leave plan was intended to influence individuals' fertility behaviour. Representatives of social organizations, including trade unions, also made it clear to the National Assembly that the intended effects of the parental leave plan were supposed to cater to a specific kind of population. This was achieved by reiterating the fact that improved parental leave was for the people 'from here' (ie. from Québec) in order to ensure the 'cultural prosperity of Québec.' For example, on 5 October 2000, during the presentations to the National Assembly of Québec by trade unions and social organizations, a member of the *Centrale des syndicats du Québec* (CSQ), Mme. Monique Richard, discussed the best interests of working women in the province:

> Cependant quand vous dites que nous n'avons pas l'intention de nous donner, au Québec, un régime si on ne réussit pas à obtenir les sommes, moi, je pense qu'on doit dans cette société québécoise faire en sorte que les femmes aient la reconnaissance de leurs droits. […] La question des droits ne doit pas être dépendante d'une volonté fédérale de nous dire oui ou non. Je pense qu'on doit utiliser la loi à fond pour dégager la marge de manœuvre qui est la nôtre, la légitimité qui est la nôtre et donner ici réponse aux besoins des femmes de chez nous au niveau des congés parentaux. (National Assembly of Québec, e: 34)

What this illustrates is that politicians were being pressured by social representatives to press on with the legislation of the policy regardless of what the federal government's intentions were. Also, the people who would benefit from the legislation were characterized as 'the women from here' or 'the women from our place.' This rhetoric both 'collectivized' and 'nationalized' the social policy so that it represented Quebecers. The question of adopting legislation that would better support women's rights to be able to have better maternity leave was represented in none other than 'national' (ie. Québécois) terms. In Mme. Richard's comment, the issue is raised of whether or not Quebecers have a 'right' to parental leave that supersedes the federal government's sovereignty over income replacement. This claim on

behalf of women workers by the representative of the CSQ is further consolidated based on the fact that women 'de chez nous' or 'from here/our place,' have *specific* needs that are different from those 'other' women in the rest of Canada or any other jursidiction that lies beyond Québec's borders. This rhetorical construct is taken up later on by political representatives from both the PQ and the PLQ.

For example, on 7 November 2000, joint PQ Minister of Families, Nicole Léger echoed the CSQ representative's statement, claiming that: 'C'est un point qui ressort clairement des opinions recueillies à l'occasion de cette consultation générale et, à ce titre, les Québécoises et Québécois doivent pouvoir exercer leur droit de créer leur propre régime d'assurance parentale, un régime qui répond aux besoins des familles d'ici' (National Assembly of Québec, f: 26). Claiming that 'Québécois' families have specific needs and that they have a 'right' to express those particular needs in the form of policy legislation was further exemplified by PLQ Minister of Employment and Social Solidarity, Michelle Courchesne, on 31 May 2005 when she stated during the second legislation of the bill that:

> […] je souhaite sincèrement que ce débat que nous allons amorcer suite aux consultations particulières que nous aurons se fasse aussi au-dessus de toute partisanerie, parce que, là ou je suis d'accord avec lui, l'adoption de cette loi-là doit avoir un seul objectif, et cet objectif doit être le seul guide de nos travaux parlementaires, c'est-à-dire l'intérêt de l'ensemble des familles québécoises, parce que, ces enfants de demain, M. le Président, nous en avons bien besoin pour assurer la prospérité économique, sociale et culturelle du Québec. (National Assembly of Québec, g: 11-2)

According to the Minister, provincial economic, social and cultural prosperity is the dynamic concept behind the demands for Quebecers' 'rights' to be able to have the family policies that they claim that they need in order to maintain Québec's unique status. Without the 'children of tomorrow,' Quebecers would be denied the right to an economic, social and cultural future of 'their own.'

Is the Québec Parental Insurance Plan 'Pro-natalist?'

What the preceding section has argued is that beyond the political interests in nation-building, national identity and sub-state national solidarity that were visible in the context of many of the white paper policies, the Québec Parental Insurance Plan also demonstrated that social and political actors in Québec were in favour of a policy that would encourage the growth of population numbers in the province. However, does this mean that the QPIP was necessarily pro-natalist? The following section considers (1) whether there is a qualitative

way of measuring whether or not social policy is, in fact, pro-natalist, and (2) whether it is possible to subject the Québec Parental Insurance Plan to its definitions and requisite characteristics.

C. Alison McIntosh suggests that, both historically and contemporaneously, population theories and policies indicate 'that the attitudes of governments toward population growth are principally determined by what are perceived to be: (a) the relationship between population and national power, and (b) the relationship between population and the economic well-being of the society' (1983: 27). McIntosh also indicates that, in practice, governments make decisions concerning the demographic make-up of their constituencies based, not only on these two variables but also, on the role the state plays in the society under question. 'That is, the actions of governments will be determined in large measure by the degree to which they possess the power, authority, and inclination to shape the structure of the society and the lives of its citizens' (McIntosh, 1983: 27).

As we will see with the QPIP, the degree to which the Québec government possessed the power to legislate and implement its own parental leave policy informed much of the 'pro-natalist' debate over the plan. The way in which legislative power is devolved in Canada led both social and political actors to represent the parental leave plan in the context of Québec nationalism in a much more significant way than they would have done should Québécois political and legislative autonomy over the matter have been conflict-free. This, in-and-of-itself, demonstrates that there is a strong relationship between the concepts of population, states and sub-state nationalism.

What the public debate over legislative sovereignty did to highlight the relationship between population and nationalism even more obviously, was to suggest that legislative sovereignty plays a role in a sub-state nation's ability to control the reproduction of 'its own' people. It may do so by legislating policies that may have a perceived effect on a specific population's fertility. The challenge to Québec's legislative autonomy by the Canadian federal government in the context of the QPIP, arguably, brought out the more 'pro-natalist' aspects of the policy in order to publically rhetoricize the importance of provincial sovereignty over a very specific area of federal policy. Thus, because political leaders in Québec, both federalist and sovereigntist, were expected to defend Québécois sovereignty in order to be able to legislate the parental leave policy, they were more prone to using examples of

Québec's low birth rate and declining population in order to prove the necessity of a Québec-legislated parental leave program.

However, whether a social policy has the specific intention of increasing birth rates in a specific territory is not always straightforward and clear. Governments can have various intentions for certain social policies and sometimes those intentions change during the legislation of a bill. Therefore it is necessary to draw on existing literature to assess whether or not the QPIP is in some ways a 'pro-natalist' policy and not simply a means on behalf of the provincial government to claim to improve the standards of living for young families in Québec or the status of gender equality in the province.

In order to accomplish this assessment the researcher has analyzed the information on the official Québec government website for the insurance plan that describes its incentives likewise: 'This plan, in effect since January 1, 2006, is a concrete way for workers to balance family and work responsibilities. It is designed to financially support new parents, encourage them to have children and help them spend more time with their children in the first months of their life' (Ministry of Employment, a). This definition has then been situated within a literature that defines pro-natalist policies as those that bear the specific intention of increasing fertility as opposed to those that simply intend to provide families with a means to more comfortably balance family responsibilities and employment obligations.

The definition of pro-natalism employed by C. Alison McIntosh in her 1983 study of population policies in Western democracies was 'designed to facilitate the identification of public policies that have been adopted for the purpose of influencing a demographic variable –either fertility or population growth' (21). The definition that she uses to understand policies that are implemented for the purpose of influencing demographic changes is:

> […] a specific set of government objectives relative to the population magnitude and/or composition with the instruments by which it may be possible to achieve these objectives. Implicitly, this definition contains four elements which should be present: (1) a statement on the part of government of its demographic goals; (2) a course of action to achieve these goals; (3) the designation or creation of an agency to be responsible for implementing the course of action; and (4) an allocation of resources to the agency to carry out its mandate. (1983: 21-2)

Taking into account McIntosh's four criteria for the definition of pro-natalism, that which was promoted on the Ministry of Employment and Social Solidarity's website concerning

the Québec Parental Insurance Plan was reconsidered: The QPIP is designed to (1) financially support new parents, (2) to encourage them to have children, and (3) to help them spend more time with their children in the first months of their life. This, arguably, is part (1) of McIntosh's argument that a definition of pro-natalism involves 'a statement on the part of government of its demographic goals.'

Furthermore, according to the Ministry, the QPIP includes four types of potential benefits. They are: Maternity benefits, Paternity benefits, Parental benefits, and Adoption benefits. There is also a supplement for low-income families whose net family income is under $25,921 (Ministry of Employment, a). This, conceivably, is a course of action to achieve the goals stated above. Under the Parti Libérale du Québec's government, the Ministry of Employment and Social Solidarity was made responsible for the legislation and implementation of the QPIP and the *Conseil de Gestion de l'assurance parentale* was made responsible for the plan's fiduciary functions. This, in the context of McIntosh's definition of pro-natalism could be 'the designation or creation of an agency to be responsible for implementing the course of action.' Finally, according to the Ministry, in order to pay for the insurance plan, employers, salaried workers and self-employed workers are obligated to pay premiums in concordance with the plan. This, along with a detailed method of transferring allocations from the federal government for opting out of the federally legislated *Employment Insurance Act* are, arguably, what McIntosh deems to be criterion number four: 'an allocation of resources to the agency to carry out its mandate.'

This definition and the methods by which it is achieved, McIntosh shows, allow the researcher to discriminate between those policies that are 'real,' and those that are 'symbolic' (1983: 22). According to McIntosh's definition of 'pro-natalism,' it would appear that the Québec Parental Insurance Plan is, in fact, 'real' in its pro-natalist intentions rather than simply symbolic. However, McIntosh warns us that the definition 'cannot be applied mechanically because governmental behaviour is seldom as neat and coordinated as the definition implies. There are occasions, for example, when governments clearly formulate and announce their demographic goals; there are many other times, however, when policy objectives remain unstated' (1983: 22). Moreover, '[p]ublic policies,' McIntosh states, 'frequently evolve over a period of years, and statements of objectives, courses of action, and allocations of resources may be out of phase with one another at any given time' (1983: 22). This means that identifying a pro-natalist policy depends on the 'careful search

in the files of government officials, discussions with policy-makers, and subjective weighing of a variety of facts and opinions' (1983: 22).

For these reasons the analysis of 'pro-natalism' in this thesis will not be limited to only one political party's definition of Bill 140. Instead the rest of the thesis focuses on an analysis of how the legislation and implementation of the Québec Parental Insurance Plan was debated publically, and also about the legislative and judicial problems that policy-makers encountered during the bill's legislation as a result of jurisdictional constraints. This analysis will make up the following substantive chapters of this thesis.

Conclusion

In this chapter it was demonstrated that there is a relationship between social policy, citizenship regimes and the national 'state.' It was also demonstrated that beyond this general recognition it is also possible to explore the ways in which relationships develop between social policy, the 'sub-state nation' and its members. This is especially true of the Province of Québec in which policies legislated during the 1990s as a response to Canada's neo-liberal engineering of the Canadian welfare state can be analyzed in the context of the province's sovereignty over social programs and the nation-building projects that are generated by virtue of that sovereignty. With the example of Québec it can also be observed whether or not there is a relationship between the different policy responses taken in the province and sub-state 'national' identity. This can be observed, furthermore, by examining what social and political actors involved in policymaking state on the public record regarding Québec's policy initiatives.

Beyond these broad observations and examinations it was also possible to asses whether or not Québec's response to Canadian welfare state transformations in the 1990s elicited a stronger focus on families and social policy relating to the family. From these particular observations it was argued that the PQ's white paper policies provided an excellent context for an analysis of the relationship between the family, social policy and the Québécois 'nation.' This relationship, moreover, draws attention to the public debates that surrounded family policy and Québécois families. Based on a brief analysis of these debates, it was argued that although all of the white paper policies had 'nation-buidling' as one of their objectives, it was only the QPIP that could also be argued to be 'pro-natalist.' The 'pro-natalist' aspects of the bill, moreover, concerned social policy that had the purpose of increasing birth rates and of reducing the trend of population decline in the primarily French-

speaking province. The pro-natalist aspects of Bill 140, it was argued, tended to be emphasized as a result of jurisdictional battles that took place between Québec and the Canadian federal government.

This chapter has borrowed from the recent literature on nationalism and social policy to claim that a case study of sub-state nationalism in Québec is a good one to demonstrate that there is a relationship between national identity formation and social policy and that a certain degree of provincial sovereignty over social policy can serve the purpose of strengthening sub-state political nationalism. However, beyond these arguments this chapter has also established that in addition to the relationship between the nation and social policy there exist questions concerning the relationship between the nation, social policy and *population*. In this chapter, Bill 140 *An Act Respecting Parental Insurance*, a legislative policy that was introduced to the Québec public at the same time as a varied group of family-centred policies in the province, has been briefly analyzed. This analysis has led to the conclusion that the QPIP, unlike the other family policies that were legislated around the same time as the parental leave plan's introduction to the National Assembly, has 'pro-natalist' characteristics, which tend to make the concepts of population and fertility more visible in legislators' public discussions of the bill.

The following chapters will expand on this analysis by substantiating the relationship that exists in Québec between population policy, the nation and nation-building projects such as the Québec Parental Insurance Plan.

Chapter 5: Jurisdictional Battles and the Québec Parental Insurance Plan: The Reproduction of National Identity in the Context of the Judicial Debates over Bill 140

As demonstrated in the preceding chapter, Bill 140 was originally introduced to Québec society in the form of the Parti Québécois' (PQ) 1997 'white paper.' It was a single part of a package of family policies geared toward the strengthening and renewal of Québec's family policy and social welfare programs. However, the Québec Parental Insurance Plan (QPIP), unlike Bill 112, Québec's law against poverty, or, Bill 145, the legislation that eventually led to the implementation of 5-dollar-a-day day care in Québec, was not legislated for implementation the first time that it was introduced in the National Assembly of Québec in 2000-2001. This was because, unlike the PQ's other white paper policies that were introduced to the National Assembly for legislation during the late 1990s and early 2000s, the implementation of the QPIP was contested by the Canadian federal government. This contestation was based on a perceived jurisdictional encroachment by the province into federal legislation. The Québec Parental Insurance Plan, it was argued by federal government representatives, was not a social program as provincial advocates claimed, but rather an income replacement program, which made it a matter for federal, not provincial, legislation.

In this chapter the jurisdictional battles between federal and provincial political actors and institutions will be investigated in order to determine to what extent the disputes may or may not have encouraged Québec's sub-state national defence of a social policy that was deemed to be an important part of a package of nation-building family policy initiatives. In chapter 4 it was suggested that 'jurisdictional battles stemming from the federal or decentralized nature of political systems can become a powerful source of nationalist mobilization at the substate level' (Béland and Lecours, 2005: 679). Moreover, as we will explore in this chapter, the opportunity for nationalist mobilization that the jurisdictional battles presented to Québécois political actors could also often be expressed in 'pro-natalist' terms. What we intend to discover is to what degree both the Parti Québécois' and the Parti Libérale du Québec's (PLQ) defence of the QPIP, made the concepts of fertility, population and demographic trends in Québec more evident in legislators' public articulation of the policy and its purpose in Québec society. The demographic concepts of population growth and fertility, it is believed, set the QPIP apart from the other white paper policies, such as the legislation that led to the implementation of affordable day care in the province as well as Québec's law against poverty.

Following from the discussion in chapter 3 of the role of the welfare state in the reproduction of citizens' 'rights' to social programs, this chapter also examines the ways in which the provincial legislation of the QPIP was publicly rhetoricized as Québécois citizens' 'rights' to their own parental insurance plan.[6] As some (Béland and Lecours, 2005; McEwen, 2001; White, 2003) have discussed, the congruence of the rise of the welfare state and the concept of social citizenship, has allowed sub-state nations' representatives to highlight the concept of 'rights' in the context of sub-state national social policy legislation. Whereas the legislation of citizens' 'rights' was once thought of as the prerogative of 'states' rather than 'nations,' researchers are beginning to analyze the ways in which sub-state autonomy over certain legislative functions, especially relating to social policy legislation, has led the representatives of sub-state jurisdictions to claim the rights of their own nation's members in certain policy contexts.

The following chapter includes an analysis of the judicial debates that took place during the legislation of both Bill 140 in 2000 and 2001 and Bill 108 in 2005. It also incorporates data produced in the National Assembly of Québec both before and after the judicial debates in the Québec Appellate Court and the Supreme Court of Canada took place. The chapter draws on the relationship of Québec to Canada in order to illustrate the extent to which federalism and interprovincial relations in Canada and Québec made it possible for sub-state national leaders, such as both PQ and PLQ representatives, to 'imagine' the Québécois population as something that nationalists must insure against decline and eventual extinction. The chapter is designed to review the extent to which public debates over the QPIP helped legislators to 'imagine' that by preserving the Québécois population, they were also ensuring the preservation of the Québécois nation.

<u>Parental Leave as Property and Civil Rights: What took Place in the Québec Appellate Court and the Supreme Court of Canada?</u>

As was already stated in chapter 4, when PQ members announced that they were introducing Bill 140 to the National Assembly in 2000, it was anticipated that legislators would have the parental leave policy implemented within two years. However, this was challenged by the constitutional and judicial debates that soon ensued with regard to jurisdictional authority

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[6] This is not intended to be an argument about the nature of individual or collective rights in Canada and Québec. Rather it is an analysis of the ways in which the term 'rights' is used by representatives within certain 'national' political jurisdictions to claim nation-building projects, such as social programs, as 'national' endeavours that are undertaken for the good of the specific people that they are intended to represent.

over the legislation of parental leave benefits in the province of Québec. Challenges to Québec's legislative authority over the matter of maternity and parental leave benefits by the Canadian federal government began not long after social and political actors introduced the concept to Québécois society in 1996. Officially, these debates began in 2001 when representatives of the PQ asked the Attorney General of Québec to present the province's defense of its own legislative sovereignty over the matter of a parental leave plan to the Québec Appellate Court. After the Appellate Court handed down a decision in 2004, (at which point the PLQ had replaced the PQ as the governing party in the province), the outcome which favoured Québec's legislative sovereignty over the matter of maternity and parental leave benefits was challenged again by the Attorney General of Canada in the Supreme Court of Canada.

What is of interest to us in this and the following substantive chapters is the precise argument that was made by the Attorney General of Québec in the Québec Provincial Appellate Court to claim that a maternity and parental leave benefits plan was necessarily a provincial matter. In order to argue that the remuneration of maternity and parental leave benefits was a provincial legislative matter rather than a federal one, it was necessary that the Québec judiciary show that the Québec Parental Insurance Plan was a 'social program' rather than an 'insurance plan' despite its appellation. In order to do so the Attorney General of Québec claimed that a refusal to grant the province legislative authority over the QPIP encroached upon the section of the Canadian Constitution which has, historically, guaranteed provinces' sovereignty over their own social programming. The argument put forth by the Attorney General of Québec in the Appellate Court was that the legislation of the Québec Parental Insurance Plan should fall under the Canadian constitutional provision whereby the provinces are sovereign over all matters relating to property and civil rights as well as matters of a local or private nature in the province. According to this socio-legal logic, the Province of Québec should be sovereign over the legislation of a maternity and parental leave benefits plan because the benefits provided under such legislation fall into the category of property and civil rights and are, necessarily, of a local and private nature.

The question originally formulated for the Québec Appellate Court by the Attorney General of Québec in 2001, asked whether the provision of maternity and parental leave benefits under the federal *Employment Insurance Act* encroached upon provincial legislative competence, or more particularly, on property and civil rights in the province. Paragraph 78

of the Supreme Court ruling sets out the original question posed by the Québec Appellate Court as:

> Question 1: Does s.22 of the Employment Insurance Act encroach upon provincial legislative competence and, more particularly, provincial legislative competence over property and civil rights and matters of a merely local or private nature under ss. 92 (13) and 92 (16) of the Constitution Act, 1867? (Supreme Court of Canada)

Section 92 of the *Constitution Act*, which was of concern to the judicial proceedings above, deals with the exclusive powers of provincial legislatures. Subsections 13 and 16 are the following:

> 92. In each province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,
>
> (13) Property and Civil Rights in the Province.
>
> (16) Generally all Matters of a merely local or private Nature in the Province.

The answer of the Appellate Court judges was 'yes,' the legislation of maternity and parental leave benefits under the federal *Employment Insurance Act* does encroach upon provincial legislative competence. The logic of the Appellate Court's decision determined that Québec legislators should be free to legislate maternity and parental leave benefits as they wished because maternity and parental leave benefits should be regarded as provincial legislative competence over property and civil rights.

It was the unanimous opinion of the Québec Appellate Court, represented by the honourable Marc Beauregard J.A., François Pelletier J.A. and Benoît Morin J.A., that:

> [75]   The pregnancy and parental benefits contemplated in sections 22 and 23 of the Employment Insurance Act are not at all part of the unemployment insurance canvas conceived in 1940. These special benefits are not paid further to the loss of a job for economic reasons; rather, they are paid further to the interruption of an individual's employment because of a personal inability to work. They are, in fact, social welfare payments that cannot easily be considered insurance, which presupposes a catalyst independent of the recipient's will. These benefits must be seen instead as an assistance measure for families and children—that is, as a social assistance measure and a laudable one at that. (Québec Cour d'Appel)

The Appellate Court, thus, established that an interruption from paid employment for the purpose of giving birth to and caring for an infant is different from an interruption from paid employment due to the loss of employment, illness, or injury. Pregnancy, according to the Appellate Court, is different from other interruptions from paid employment because it is

dependent upon 'the recipient's will.' Because it is dependent upon 'the recipient's will,' it is assumed to be a social assistance measure for families and children rather than a form of insurance against the possibility of someday not being employed or employable. This argument, in conjunction with the inferred judicial argument that maternity leave is a property and civil right in the province raises questions concerning the sovereignty of a jurisdiction over individuals' 'will' and 'right' to take time away from paid employment to have children and to take care of them during the first few months of their lives.

As previously stated, on 20 October 2005, the appeal which was upheld in the Québec Provincial Court of Appeal was turned down by the Supreme Court of Canada. On 20 October 2005 Canadian Supreme Court Justices Beverley McLachlin, Ian Corneil Binnie, Louis LeBel, Morris J. Fish, Rosalie Silberman Abella and Louise Charron held that:

> The context in which the provision relating to maternity benefits was enacted, and its language and effect show that *the pith and substance of the benefits is the replacement of the employment income of insured women whose earnings are interrupted when they are pregnant.* As can be seen from the context in which the first unemployment insurance legislation was enacted, Parliament's intention was to curb the problem of unemployment. Although many workers, including pregnant women, were originally excluded, special benefits were instituted, after women had entered the labour market in large numbers, to compensate for the interruption of their earnings that resulted from pregnancy. It is quite clear from the text of the provision that benefits are paid to a woman who loses her employment income because of her pregnancy if she held insurable employment during the period required by the Act. Also, *the primary effect of the measure is to replace, in part, employment income.* Although the secondary effect is to enable women to prepare for childbirth, to recover physiologically and to have a period of time to take care of their families, this secondary effect does not divert the measure from its purpose or its primary effect; rather, it is a natural consequence of them. The right to take time off work is not granted in the *Employment Insurance Act*; it derives from other legislation, or from an agreement between the employer and employee. *Support for families and the ability to care for children are only one of the effects of the measure, and are not its pith and substance.* [26] [29] [33-35]
>
> The social nature of unemployment insurance requires that Parliament be able to adapt the plan to the new realities of the workplace. *An interruption of employment due to maternity can no longer be regarded as a matter of individual responsibility. Women's connection to the labour market is well established, and their inclusion in the expression "unemployed persons" is as natural an extension as the extension involving other classes of insured persons who lose their employment income.* [37] [39] [48] [56] [66] [68] (Supreme Court of Canada [Emphases mine])

Thus, according to the Supreme Court of Canada, the interruption of employment due to maternity should not be regarded as a matter of individual responsibility. This opposes the view of the Appellate Court judges who determined that social welfare payments presuppose

a catalyst dependent on the recipient's will, the recipient being an individual who acts based on her own individual choices. According to the Supreme Court of Canada, an insurance plan does not grant a worker a 'right' to take time away from work but rather it is there to insure individuals against the risk of becoming unemployed. This decision contravenes the Québec Appellate Court's decision that was determined based on the conceptualization of a parental leave scheme as a social program premised on Quebecers' 'property and civil rights' rather than as a form of 'insurance' against the risk of becoming unemployed in the event of pregnancy.

As a consequence of the judicial debates that ensued during the legislations of Bill 140 in 2000-2001 and Bill 108 in 2005, the QPIP was presented publicly in a distinctive light. Because the legislation of the QPIP, unlike the legislation of the other PQ white paper policies, was contested by the Canadian federal government, it was defended by Québécois representatives much more fervidly on the public record. The rest of this chapter investigates the extent to which legislators' public discussions of the QPIP reproduced the logic that was adopted by judicial advocates in order to defend either provincial or federal legislative sovereignty over maternity and parental leave benefits. It begins with the general observation that the logical extension of the Québec Appellate Court's decision –that parental leave is necessarily the legislative jurisdiction of the provinces based on an interpretation of parental leave as a 'property and a civil right'– could often be found repeated on the public record by social and political actors of various political party affiliations. Thus, this chapter also considers how public record accounts of the jurisdictional battles that took place between Québécois and Canadian officials were articulated in a language of rights. Furthermore, it analyzes how jurisdictional battles between federal and provincial government representatives may or may not have made the concepts of 'rights,' population and demography more visible in public record accounts of the parental leave bill and its purpose in Québécois society.

Some researchers have discussed the construction of nationality, nationalism, and even personages, languages and censuses as cultural artefacts (Anderson, 1991: 4; Handler, 1988: 152-3; Hobsbawm, 1990: 111, 161). Anderson argues that part of the modern 'imagination' of nations has occurred as a consequence of the standardization of languages. Languages, he argues, were once as diverse as the myriad local communities that made up the European continent as well as other geographic areas. The standardization of language, however, contributed to nation-building endeavours in modernity by reproducing the idea that

individuals within the nation are similar to each other but different from the members of other nations. The spread of this idea was successful because language was conceptualized as a form of property to which individuals were entitled by virtue of their association in one particular national community. As Anderson, suggests: 'The lexicographic revolution in Europe […] created, and gradually spread, the conviction that languages (in Europe at least) were, so to speak, the personal property of quite specific groups –their daily speakers and readers– and moreover that these groups, imagined as communities, were entitled to their autonomous place in a fraternity of equals' (1991: 84).

In the context of the QPIP it will be suggested that a 'population,' like a language, can be conceived of as a form of property that guarantees the survival of one specific nation whose members are believed to be similar to each other but different from the members of other nations. The Québec Parental Insurance Plan is often claimed by political actors as the 'right' of Quebecers to be sovereign over the legislation of maternity and parental leave benefits. This sovereignty, it is claimed, is a means of safeguarding Québécois autonomy with regard to the legislation of social policy but it is also a means of ensuring the continuity of the Québécois population, and by extension, the continuity of the French-speaking nation. It is a right, moreover, that is claimed against Canadian federal sovereignty over the administration of income replacement funds. The ways in which the legislation of the QPIP led legislators to conceive of 'population' as a 'property right' can be discerned by evaluating public discussions of Bill 140 in the context of the other white paper policies.

In the context of other PQ white paper policy legislation, it can be observed that the other social programs that made up the family policy package were also claimed as Quebecers' 'rights.' For example, on 1 October, 2002, during the public hearings for Bill 112, Québec's law against poverty, PQ Minister Mme. Linda Goupil claimed that Bill 112 was derived from the same principles and rights as was Bill 101, the language law that was adopted in 1977 and that guaranteed certain French-language privileges for citizens in the province of Québec. Of Bill 112, the Minister of State and Social Solidarity asked:

> Qu'est-ce que ce projet de loi propose? Il s'articule en cinq points: des principes fondamentaux qui sont inscrits dans le préambule de la loi comme la Charte des droits et libertés, comme la loi 101, la Charte de la langue française; ce sont ces deux seules lois où nous y retrouvons les principes fondamentaux que nous retrouvons également dans le projet de loi de la lutte à la pauvreté et de l'exclusion sociale. (National Assembly of Québec, u: 3)

Furthermore, during the same public auditions for the bill, representative of the *Assemblée des évêques du Québec* (AEQ), M. Raymond St-Gelais, made the following statement:

> L'Assemblée des évêques du Québec reconnaît que le projet de loi marque une étape importante dans l'histoire de notre société et constitue une décision très courageuse de la part du gouvernement car il exprime de façon officielle l'orientation de notre société québécoise vers plus de justice et de solidarité. Notre société est passée de l'État providence à l'État gestionnaire et semble vouloir aller vers un État garant des droits des personnes et promoteur de la solidarité sociale. C'est un choix auquel l'Assemblée des évêques souscrit pleinement, puisqu'il vise le bien commun de l'ensemble des citoyens et des citoyennes.
>
> Les membres de l'Assemblée des évêques souhaitent d'abord que le gouvernement approfondisse la vision qu'il développe dans son projet de loi. En situant la lutte à la pauvreté dans la perspective des droits de la personne, le projet de loi confirme que chaque être humain, quelles que soient ses forces et ses faiblesses, a le droit d'avoir ce qui est nécessaire pour vivre dignement dans notre société et pour y être un membre actif et reconnu.
>
> Ce que le projet de loi ne dit pas, c'est que l'exercice effectif des droits de la personne n'est pas toujours facilité par le contexte social et économique. Il serait important de pouvoir nommer les causes individuelles et collectives de la pauvreté ainsi que les limites et les faiblesses de l'économie de marché, face à la redistribution de la richesse. (National Assembly of Québec, u: 14-5)

In the context of the legislation of Bill 112, the concept of 'rights' was used to articulate the role of the 'state' in preserving both a community's basic access to services in a common language and individuals' fundamental 'rights' to basic standards of living. In these contexts the concept of 'rights' is loosely related to the concept of the 'nation' and the role of the 'provincial state' in providing services and programs to its citizens. However, it is not related to the concept of cultural continuity. That is, the legislation of Bill 112 was not rhetoricized by legislators as the 'rights' of the members of the Québécois population to be able to continue the reproduction of their own population in the future.

The rhetoric of rights was also used by both social and political actors during the legislation of the QPIP to claim superior social programming for the people who claim association in the Québécois nation as well as to claim provincial legislative sovereignty over the parental leave scheme. For example, during the public debates over Bill 140 when the PQ was in power in 2000, representatives of trade union organizations pleaded with provincial government representatives to ensure Quebecers' rights to have their own family policies, including a provincial parental leave program. Mme. Suzanne Amiot of the *Fédération des travailleurs et des travailleuses du Québec* claimed the following:

Le financement du régime québécois n'est actuellement pas assuré à cause du refus du gouvernement fédéral de réengager les négociations quant à la part des cotisations de l'assurance emploi qui doit être retournée au Québec. Si cette négociation devait échouer, le gouvernement québécois serait peut-être tenté de revoir à la baisse les droits concrets des parents québécois. (National Assembly of Québec, a: 77)

Furthermore, it was claimed that the federal government policy whereby unspent Employment Insurance funds are redistributed to each province based on a province's perceived need, did not correspond to Québec's desire for improved parental insurance that would return unused funds solely to Quebecers. A representative of the *Confédération des syndicats nationaux*, Mme. Claudette Carbonneau made the following statement to the National Assembly in 2000:

Vous remarquerez que la première recommandation de notre mémoire, quand on encourage le gouvernement du Québec à rapatrier complètement sa compétence constitutionnelle pour bâtir une caisse québécoise, on dit aussi, du même soufflé, qu'on souhaite que l'ensemble des argents déposés par les Québécoises et les Québécois revienne à l'intérieur de cette caisse-là. C'est, pour nous, une question fondamentale d'équité qui ne peut pas être contournée, d'aucune façon, et qui ne répond même pas, dans la logique du régime fédéral actuel, à des principes de répartition en fonction de la pauvreté de telle ou telle province, de besoins. (National Assembly of Québec, a: 47)

In this instance the representative invokes Québec's constitutional autonomy as a means of ensuring that Québec's needs with regard to maternity and parental leave take precedence over the federal government's allocation of insurance funds according to perceived need. Asserting the province's constitutional authority is claimed to be a matter of equality for all Quebecers.

Also, the forces of federalism are invoked in order to claim that Quebecers have a 'right' to bear children without being punished by contemporary labour market capitalism. Claiming this as a 'right,' furthermore, implies that the Québécois government has an obligation to legislate this policy for its citizens. On 5 October 2000, representative of the *Regroupement des centres de la petite enfance de la Montérégie*, Mme. Claudette Pitre-Robin expressed the following:

Tout parent, peu importent son statut, son état ou sa condition, doit pouvoir exercer ses pleins droits quant à son rôle de parent, de citoyen et de travailleur. Le présent projet de loi de l'assurance parentale doit assurer à l'ensemble de la population actuelle et à toutes les générations futures une liberté de choix, certes, mais surtout la possibilité de l'exercer. […] Le gouvernement québécois a la possibilité mais aussi le devoir d'en assurer la mise en opération, l'accessibilité et la concertation. (National Assembly of Québec, e: 3)

In this example 'rights' are not only claimed for the current individual members of Québécois society but also for the future generations of Quebecers that can only be imagined to exist in a future time. This kind of rhetoric conflates individuals' personal identities as parents and family members with the collective's identity as a nation, and it assumes that Quebecers have a responsibility to legislate policy that targets individuals who do not yet exist. The logical extension of this conflation –that individuals who reproduce family members must be equally responsible for reproducing the future members of the Québécois nation– only makes sense if the existence of a nation is 'imagined' to persist through time beyond the typical lifespan of any mortal individual. In 'national' communities where the concept of continuity and survival is important to public conceptualizations of collective identity, individuals who can only play a role in the collective identity of the nation for a time period that is equal to their mortal lifespan –beyond which the concept of the nation is expected to be reproduced socially and symbolically– are also tasked with the responsibility of reproducing the individuals who will continue the social and symbolic reproduction of the nation.

This suggests that the legislation of social policy can act as a means by which social and political actors can represent the importance of the national collective in terms of the 'rights' that are granted to each member through the provision of services and social programs. But beyond this it also allows each member of the nation to imagine that policy legislated in the present will also protect the nation's future members. As was explained in chapter 3, the use of individual and collective rights discourse evolved both in Canada and Québec after the Second World War and the Quiet Revolution. However, not much has been reviewed concerning the discourse of social policies as the 'rights' of citizens to be able to birth more children in a society where wage-labour markets might hinder their desire or *ability* to do so. In the context of the legislation of the QPIP, 'rights' discourse was a powerful tool for the Québécois governments (both PQ and PLQ) involved in the legislation of the Québec Parental Insurance Plan as well as the social actors who represented interest groups with a stake in the program. It was a powerful tool in negotiating national identity and the concept of 'population' as something that the individual members of a nation 'have,' and, by extension, 'have a right to.'

As it was argued in previous chapters, the concept of the nation and nation-building projects has evolved in the context of the development of the modern state (Breuilly, 1993; Calhoun,

1993, 1997; Mann, 1995). The nature of nationalism and nation-building has evolved in tandem with the nature of the role of the state. One of the major changes in the role of the state occurred in the twentieth century with the sudden growth of the welfare state and the concept of individual citizens' 'social rights' (Béland and Lecours, 2005; McEwen, 2001). The ability of the state to generate nation-building projects such as 'national' social policies and welfare programs has been a subject for several researchers in the field of nationalism studies. In this chapter, it will be suggested that the relationship that exists between states and nation-building projects can also be observed at the sub-state level. The powers and responsibilities of the state were harnessed by social and political actors in the sub-state nation of Québec during the legislation of the QPIP in order to express the provision of social services in the form of members' 'rights' to the preservation of the nation's population and cultural continuity. This, it is argued, made the relationship between nation-building objectives and and the nation's 'population' much more explicit than they would have otherwise been.

The collective uniformity of the modern 'nation-state,' which can sometimes be regarded as intruding in the lives of individuals, is often at odds with the modern liberal theoretical focus on individuals and freedom of choice. By claiming that the QPIP was the 'right' of Quebecers, Québécois government representatives constructed a kind of equality among individuals within the Québécois nation and difference from the citizens of the Canadian federal state as well as every other national group that lies beyond Québec's borders. That difference from all other nations that lie beyond Québec's borders is most starkly represented by the 'difference' between Québec and the rest of Canada. That difference, furthermore, was made legitimate when the Canadian state granted the province the administrative agreement that it needed to implement the provincial parental leave program.

Because jurisdictional battles between federal and provincial governments made issues with regard to Québécois sovereignty more visible, sub-state nationalist discourse was often represented 'hotly' within a Canadian federal context. However, although federal Canada was the entity against which Quebecers' 'rights' to a better parental leave plan were claimed, membership in Québec's 'national' community was often represented 'banally.' It was represented 'banally' by legislators who claimed that the QPIP represented the 'rights' of people 'from here,' suggesting that the Québécois nation as well as the Québécois population can be taken for granted in the context of sub-state national policy legislation.

'Un régime qui répond aux besoins des familles d'ici': How the Judicial Debates over Bill 140 gave Quebecers Property 'Rights' to *their* Population

Much of the political discourse concerning 'rights' that was reproduced during the legislation of the Québec Parental Insurance Plan can be traced to the judicial debates that took place in order to secure provincial sovereignty over the legislation and implementation of a specifically provincial plan. The initial question posed by the Attorney General of Québec to the Québec Provincial Court of Appeal was: 'Does s.22 of the *Employment Insurance Act* encroach upon […] provincial legislative competence over property and civil rights and matters of a merely local or private nature […]' (Supreme Court of Canada). This raised some important issues concerning the identity of the Québécois citizen not just as an individual with property and civil rights but also as a subject with a locality and a private 'nature.' As Benedict Anderson explains, the idioms of kinship and home are used to 'denote something to which one is naturally tied' (1991: 143). Social policy, moreover, is a means for social and political actors to tie the individuals of a nation together and to suggest that the social rights that are granted to them by virtue of state-sanctioned programs, are granted to them because of the association that they claim in the nation.

The QPIP, like the other white paper policies, was initially presented to the National Assembly of Québec as a family policy that was intended to help parents balance active workforce obligations and family responsibilities. The parental leave program was intended to protect parents who want to have children from some of the challenges of full-time employment and wage market capitalism. Legislators who implement work-life balance initiatives must assume that parents and potential parents are engaged in some form of labour market activity from which they have to take leave in order to give birth to and to raise infants (Espenshade, 1972; Folbre, 1994; Köhler et al., 2006; MacInnes, 2006; McIntosh, 1983). They must also assume that labour market activity hinders individuals' ability to both have children and to live the lives that they would normally live in economic circumstances without children. The Québec Parental Insurance Plan, it was claimed by legislators, would increase the quality of life of young families who were trying to balance work and family commitments.

One of the important aspects of the program, according to PQ Minister of Childhood and Families, Pauline Marois, was to allow the state to minimize parents' loss of revenue when they decided to stay at home in order to take care of newly born children. On 26 September,

2000, during the first public debates in the National Assembly on Bill 140, Marois stated the following:

> Je me permets de le rappeler: la nécessité de ce régime fait toujours consensus au sein de la société québécoise. Aussi, la décision de déposer le projet de loi n° 140, Loi sur l'assurance parentale, vient notamment répondre aux demandes historiques, demandes historiques formulées par les groupes de femmes et les groupements sociaux, et ces demandes ont été réitérées lors du Sommet sur l'économie et l'emploi à l'automne 1996 et, rappelons-le, plus récemment lors du Sommet du Québec et de la jeunesse en février 2000.
>
> Il ne fait donc aucun doute dans mon esprit que les commentaires recueillis lors de la présente consultation sur le projet de loi sur l'assurance parentale feront écho à ce vibrant consensus, car cet accord collectif prend sa source dans les valeurs familiales les plus profondes de l'ensemble des Québécoises et des Québécois. C'est dans ce contexte que le ministère de la Famille et de l'Enfance a su, je dirais contre vents et marées, définir, en collaboration avec la Régie des rentes du Québec et avec ses partenaires québécois, un régime d'assurance parentale. Ce régime d'assurance parentale répond davantage aux besoins des Québécoises et des Québécois *désireux de fonder et d'agrandir leur famille* et tient compte aussi, dans ses couts et ses modalités, des attentes des principaux acteurs sociaux au Québec.
>
> Ce projet de loi que nous soumettons aujourd'hui à la réalité québécoise. Il nous permettra d'aider les parents à concilier leurs responsabilités familiales, les impératifs du travail et bien sûr *l'épanouissement de leur famille*. D'ailleurs, vous le savez comme moi, Mme. la Présidente, une foule de raisons militent en faveur de sa mise en place *chez nous*.
>
> Dans le contexte social actuel, l'amélioration des conditions de vie des parents lors de la naissance ou de l'adoption d'un enfant bien sûr sera considérée et pourrait s'ajouter aux autres facteurs de soutien à la santé économique des familles et, une fois de plus, viendrait confirmer l'importance que le Québec accorde aux enfants.
>
> Il nous paraît important que l'État minimise pour les parents la perte de revenus pouvant découler de la décision de passer plus de temps soit auprès de leur nouveau-né ou soit auprès de leur enfant récemment adopté. C'est particulièrement vrai pour les parents qui disposent d'un faible revenu et ceux qui travaillent à temps partiel. Cette amélioration apparaît d'autant plus souhaitable que les conditions d'exercice de la fonction parentale ont évolué. En effet, le nombre de femmes sur le marché du travail continue d'augmenter, le travail autonome, le cumul des emplois, le travail à temps partiel sont des réalités auxquelles sont confrontés de plus en plus les jeunes et les femmes. Ainsi, les jeunes qui souhaitent avoir un enfant n'ont pas toujours accès au soutien financier susceptible d'encourager leurs projets. (National Assembly of Québec, a: 2-3 [Emphases mine])

The Québec Parental Insurance Plan, according to Marois, responded to a need among social actors to meet both the requirements of labour force participation and family responsibilities such as 'l'épanouissement' – from the verb 'épanouir' meaning 'to make happy,' 'to fill out,' or, 'to blossom'– of the Québécois household. The PQ minister claimed that it was up to the

Québécois state, moreover, to reduce the amount of money that parents lose by deciding to take time away from paid labour to look after newborn children.

The function of the state in citizens' personal lives was also depicted by social actors as having the purpose of guaranteeing individuals' rights to take time away from work to have children. For example, on the subject of self-employed workers' contributions to the Québec Parental Insurance Plan, the representative of the *Regroupement des centres de la petite enfance de la Montérégie*, Mme. Claudette Pitre-Robin, expressed that: 'En grande partie, quand on parle de l'ensemble des travailleurs autonomes là, qu'elles paient leur juste part. Parce que je pense que c'est des droits de chacun des travailleurs, d'avoir accès a des périodes de congé de maternité, si on veut que le Québec ait finalement le goût de faire des enfants' (National Assembly of Québec, e: 9). In this example, improved access to maternity leave for all workers is depicted as the means by which the province's members will finally have the desire to have more children. Thus, the assumption that has been observed in these examples is that fulfilling an individual's right –who is self-employed and has not previously benefited from the parental leave program– to a maternity and parental leave benefits plan, will somehow grant Quebecers, as a collective, a previously unfulfilled desire to have any, or, to have *more* children.

Furthermore, as many representatives of modern Western welfare states are prone to comparing the services that they offer their citizens to other states' services, the administration of a devolved parental leave policy was one that more easily enabled the comparison of the welfare state programs in Québec to the rest of Canada. This kind of comparison allowed the representatives of the Québécois nation to appear as though they were more concerned with the birth rate as well as the welfare of their *own* citizens by offering better programs than the Canadian federal government to counteract the economic and cultural effects of low birth rates in Québec.

For example, on 7 November 2000, PQ joint-Minister of Childhood and Families, Nicole Léger, responded to a representative from the *Regroupement inter-organismes pour une politique familiale au Québec* in the National Assembly. She made it clear that the parental insurance plan should be the exclusive responsibility of the Québec government because 'Québécois families want more children.' To the suggestion from the representative of the coalition that the QPIP be solely the responsibility of the Québec provincial government and not a joint program between the federal and provincial governments, Léger stated:

> Vous savez qu'il a été question parfois ici, dans cette Assemblée, en commission parlementaire, de régime complémentaire qui était soulevé. Ma collègue ministre de la Famille et de l'Enfance a bien mentionné qu'il n'est pas question d'un régime complémentaire et que nous voulons cette négociation-là avec le fédéral, et encore aujourd'hui nous réitérons et nous réitérons à cet effet-là de vraiment faire cette négociation-là avec le fédéral pour le bien de toutes nos familles du Québec, et le fait aussi que les familles veulent des enfants. (National Assembly of Québec, f: 8-9)

Thus, the administration of the plan exclusively by the Québec provincial government was depicted as being for the good of Québécois families, given that Québécois families 'want children.'

Also, at the end of the presentations made to the National Assembly on 7 November, 2000, when Russell Copeman, a representative of the then opposition party, Parti Libérale du Québec, was asked to make his final remarks on the general legislative consultation, he stated that:

> C'est la position, M. le Président, de l'opposition officielle. Elle est toujours notre position. Le Québec doit être le maître d'œuvre de la mise en application d'un programme d'assurance parentale mieux adapté aux besoins des familles québécoises. La loi sur l'assurance emploi du Canada permet la réduction des cotisations quand un régime semblable est mis en vigueur. Vous n'avez pas à me convaincre, M. le Président, que le projet qui est devant l'Assemblée nationale est à bien des égards supérieur même aux bonifications annoncés par le gouvernement du Canada en ce qui concerne les congés de maternité qui seront mis en vigueur le 1er janvier 2001. (National Assembly of Québec, f: 22)

Further to Mr. Copeman's comments, PQ representative Nicole Léger also expressed concern on the subject of Québec's full sovereignty over the legislation of the proposed maternity and parental leave benefits plan:

> Mais j'aimerais par ailleurs quand même soulever quelques points importants à ce moment-ci: D'abord, le Québec entend rester maître d'œuvre de sa politique familiale. C'est un point qui ressort clairement des opinions recueillies à l'occasion de cette consultation générale et, à ce titre, *les Québécoises et Québécois doivent pouvoir exercer leur droit de créer leur propre régime d'assurance parentale, un régime qui répond aux besoins des familles d'ici.*
>
> Celà me paraît fondamental et d'autant plus important que les dispositions de notre politique familiale forment un ensemble de mesures indissociables. Ces dispositions, qui agissent à la fois en complémentarité et de manière ciblée, contribuent à l'amélioration des conditions de vie des enfants et des familles du Québec. Pensons notamment à la maternelle à temps plein et au développement des services de garde éducatifs ainsi qu'à l'allocation familiale et aux mesures du régime

fiscal québécois qui s'adressent aux familles. Aussi tangible que soit déjà leur effet combiné, ces mesures susciteront toute la synergie souhaitée qu'avec la mise en œuvre du régime d'assurance parentale.

Soulignons que ce régime aura un impact significatif à un moment crucial de la vie des familles. Je fais référence à la période suivant la naissance et l'adoption d'un enfant, durant laquelle les familles ont des besoins importants sur le plan financier et sur le plan de la présence parentale. En concrétisant ce régime, le gouvernement entend apporter un soutien à la mesure *des besoins des Québécoises et des Québécois désireux de fonder ou d'élargir leur famille* et finaliser enfin la troisième disposition que prévoyait le livre blanc sur les nouvelles dispositions de la politique familiale. (National Assembly of Québec, f: 22-3 [Emphases mine])

Here, Nicole Léger depicted the maternity and parental leave benefits that are to be exclusively administered by the province of Québec as Quebecers' 'rights' to have their own maternity and parental leave benefits. These 'rights,' furthermore, are represented as a response to Quebecers' need for state support in order to have the families that they desire.

The idea that improved parental leave is something that Quebecers should have a 'right' to comes out of the province's relationship to Canada and some of the principles of twentieth-century Canadian citizenship such as the concept of the individual and ethnic minorities as 'rights-bearers,' as was discussed in chapter 3. Rights discourse developed in Canada during the 1970s and 1980s parallel to the inclusion of the Canadian Charter of Rights and Freedoms in the patriated *Constitution Act, 1982*. It is used in the context of sub-state nationalism and the administration of social policy to mobilize sub-state national sovereignty and to create public awareness of a 'national' identity that is territorially and culturally bounded. As Nicole Léger stated, the parental leave program was meant to respond to the needs of 'families from here,' meaning from Québec. In this context, individuals' 'rights' to their own program were claimed for the members of the Québécois nation against the encroachment of the Canadian federal state upon what was perceived to be provincial jurisdiction.

In the context of the legislation and implementation of the Québec Parental Insurance Plan, the 'right' to have a parental leave plan that is 'Québécois' was expressed in terms of Québec's ability to administer social policy. 'Rights' in this instance were used to identify Quebecers' relationship to the Québécois 'state' as the provider of 'their own' social programs which are 'different from' those offered by the Canadian federal state. The latter, according to public accounts, impedes the legislation of Québécois social policy interests. Quebecers, and Québécois families, according to the political representatives responsible for

the legislation of the Québec Parental Insurance Plan, are more important to the Québécois provincial state than they are to the Canadian federal state because they represent the future of the Québécois nation. Implicit in this discourse is the assumption that because individual Quebecers form a population that represents the Québécois nation, the Québécois state is required to support individuals' endeavours to continue to have more Quebecers and, as a result, to ensure the population of the nation's survival.

In 1999 the Canadian federal government announced a plan to improve maternity and parental leave benefits for all Canadians. As a consequence, Québec legislators made it appear as though they were also improving provincial maternity and parental leave benefits. They did so in order to appear as though they were giving higher priority to the legislation of maternity and parental leave benefits than the federal government. For example, on 18 December, 2000, during the detailed study of the proposed provincial legislation, PQ representative Nicole Léger suggested that the purpose of Bill 140 was to make parental leave benefits in the province of Québec better than the benefits offered by the federal government to the rest of Canadians:

> Bien, je peux bien vous dire que, si on était souverain, on le ferait tout seul, hein. Je tiens à vous dire ça, là. Alors, on est obligé quand même d'aller négocier avec le fédéral, d'une part et il faut avoir…Le fédéral a bonifié son régime. En le bonifiant, son régime, il pourra entrer en vigueur le 1er janvier 2001, alors ça nous a amené, ici, au Québec, à s'ajuster aussi.
>
> On est allé voir les partenaires, on est allé voir les gens. Il fallait avoir de quoi à mettre sur la table pour nos partenaires aussi. C'est ce qu'on fait, tous les paramètres qu'on a puis tout le régime d'assurance parentale que nous avons sur place, là, et il fallait avoir de quoi pour aller négocier avec le fédéral. Il faut que j'aie de quoi à mettre sous la dent pour que le fédéral puisse faire cette négociation-là, parce qu'il n'y a pas négociation avec le fédéral si ce qu'on propose n'est pas équivalent ou bonifié. Alors, pour le bonifier, il ne fallait pas que je parte avec le régime que j'ai actuellement; il fallait que je le bonifie avec les paramètres qu'on a là. Alors, il faut avoir de quoi pour être capable de négocier. (National Assembly of Québec, n: 17)

Thus, after the federal government proposed amendments to maternity and parental leave benefits offered under the federal *Employment Insurance Act* it was necessary for Québec legislators to 'improve' the proposed Québec plan before claiming that Quebecers had a 'right' to a 'better' maternity and parental leave plan. One of the motivations, thus, to improve the plan for Quebecers was not only so that individual Quebecers could have access to better services but so that the provincial government could claim to be offering Quebecers a 'different' and 'better' plan than the federal government. This, in combination with the

'rights' discourse that was reproduced during the legislation of the QPIP demonstrates the extent to which the Canadian federal system acted as a measure against which Québec nationalists determined to what extent the provincial state's sovereignty was either being hampered or encouraged.

As it is being argued, the jurisdictional battle for sovereignty over the legislation of maternity and parental leave benefits led Québécois representatives to defend Québec provincial legislative autonomy against the Canadian federal government. This public defence often led legislators to express legislative autonomy in the province as being the 'rights' of the members of the sub-state polity that they represented. Thus, like the literature that explores the relationship between the functions of the state, social policy legislation, the concept of social 'rights,' and nation-building, so too is it possible and important to analyze the dynamic that exists between the functions of sub-state national units, social policy legislation, the concept of social 'rights' and 'population.'

The following section goes on to examine the extent to which the concepts of population, falling birth rates and demography may play a role in sub-state national social policy legislation and a sub-state nation's nation-building objectives. The following section also considers the extent to which jurisdictional battles between provincial and federal government representatives may have caused provincial representatives to highlight demographic issues by presenting maternity and parental leave benefits in the context of Québec's falling birth rate.

The Legislation of the Québec Parental Insurance Plan in a Federal Context

Despite differences in political nationalism, both the PQ and the PLQ were committed to using a language of 'rights' and cultural continuity to reproduce the concept of national identity in the context of a 'pro-natalist' maternity and parental leave and program. This was due to the fact that in order to 'imagine' a national community one must appreciate, as Richard Handler explains, that the negative vision of disintegration 'is a reality not only for the ideologues of the Parti Québécois, but for all Québécois nationalists concerned with *la survivance* –the survival of the French-Canadian or Québécois people' (1988: 5).

When PLQ minister Michelle Courchesne described how Bill 140, which was passed by the PQ in 2001, would be renegotiated by her own ministry for implementation as Bill 108 in 2005, she contended that the bill's implementation 'follows directly from that Canada-

Québec agreement signed on the first of March' (National Assembly of Québec, g: 4 [Translation mine]). Of the Québec Parental Insurance Plan she claimed:

> Contrairement au régime d'assurance-emploi, il est accessible, aujourd'hui, à la plupart des mères. En effet, en vertu du régime fédéral, environ 50% des mères qui accouchent ou adoptent un enfant ne recoivent aucune prestation soit parce qu'elles n'ont pas travaillé suffisament d'heures, soit parce qu'elles sont des travailleuses autonomes ou qu'elles sont absentes du marché de travail. Alors, le régime facilite l'admissibilité, couvre les travailleuses et les travailleurs autonomes et offre un taux de remplacement supérieur qui permet aux parents de choisir entre deux options de congés, selon ce qui convient le mieux à leur situation. (National Assembly of Québec, g: 5)

According to Courchesne, the PLQ's legislation of the plan facilitated Quebecers' freedom to choose between two options included in the administration of the provincial plan, making it superior to the federal EIA benefits because of its flexibility. In this statement, the minister assumed that the federal EIA benefits were, in fact, restricting Quebecers' freedom to be able to choose to have the maternity and parental leave plan that they wanted.

What does this conceptualization of freedom of choice mean though when it comes to 'having' a Québécois population that is different from a Canadian population? Richard Handler claims that:

> In modern ideology, individuated being is defined in terms of choice and property. […] Individuals demonstrate their being, their individuality, through choice; choice is the creative manifestation of self, the imposition of self onto the external world. Property is what results from choices –products that exist in the external world yet remain linked through proprietorship to the self that created them. Thus the nation and its members "have" a culture, the existence of which both follows from and proves the existence of the nation itself. To lose one's culture, or to abdicate responsibility for cultural creation and autonomous choice, is to renounce life itself. (1988: 51)

In Michelle Courchesne's formulation the reproduction of a 'population' results from choices relating to maternity and parental leave. According to the minister's logic, if Quebecers are given a choice with regard to their parental leave benefits, they will also be able to choose to have children. The Québécois population, which is a result of Quebecers' choices to have children, is a product of labour that 'exists' in the external world and yet remains fundamentally linked through an imagined proprietorship to a conception of the self that creates it. The conception of the self that creates the population, furthermore, is linked by discourse to concepts of collective identity and the Québécois nation. Thus, given the proper support from the Québécois state, the Québécois nation and its members can 'have' a

'population,' the existence of which would both follow from and prove the existence of the Québécois nation itself. Furthermore, according to this 'rights' discourse, by exercising his or her 'rights' to a population, an individual Quebecer becomes no longer distinguishable from his or her function in the reproduction of the nation.

In response to Mme. Courchesne's remarks concerning the PQ's inability to negotiate with federal government officials, M. Camil Bouchard, PQ representative of Vachon and official opposition for matters relating to employment and social solidarity between 18 February 2004 and 30 January 2006, points to the inopportune timing of the PQ's negotiations with the federal government. He suggests that the PLQ had the advantage of facing the federal government when the federal Liberal Party of Canada held a minority government. Because of the federal Liberals' minority status, and the knowledge that they were to present themselves to the electorate in the near future, Bouchard claims, the task of negotiating the constitutionality of the QPIP was much less daunting for the PLQ than it was for the PQ:

> M. le Président, non seulement ce gouvernement a-t-il profité d'un jugement positif à l'égard des revendications du Québec, mais en plus ce gouvernement a profité qu'il avait en face de lui un gouvernement minoritaire qui était prêt à céder étant donné sa fragilité et un gouvernement qui allait devoir se présenter éventuellement et très rapidement devant l'électorat. Processus judiciaire gangnant pour le Québec, un gouvernement minoritaire en face, et on se dit et on se le fait dire aujourd'hui, M. le Président, que c'est le gouvernement précédent qui avait manqué à ses devoirs, en invoquant la souveraineté comme étant la mère de tous les maux, M. le Président. Ce n'est pas celà du tout.
>
> Le Québec a fait des représentations que n'importe quelle autre juridiction provinciale du Canada aurait pu faire et gagner dans les circonstances, en demandant à une cour d'appel de statuer sur la constitutionalité des dispositions de l'assurance-emploi du gouvernement fédéral en vertu de sa capacité d'intervenir dans un champ de compétence *québécois*. Et nous l'avons gangé au profit du gouvernement ultérieur, et c'est tant mieux pour la population du Québec, c'est tant mieux pour les parents du Québec, c'est tant mieux pour nous toutes et pour nous tous, mais qu'on ne vienne pas nous dire que celà dépend d'une stratégie souverainiste à l'opposé d'une stratégie fédéraliste. Jamais, M. le Président. Il s'agissait d'une stratégie de *reconnaissance des droits les plus fondamentaux du peuple québécois et de ce gouvernement, de ce Parlement, de cette Assemblée nationale*. (National Assembly of Québec, g: 8 [Emphases mine])

Whereas Michelle Courchesne appealed to the Canada-Québec Agreement reached by the PLQ in 2005, M. Bouchard appealed to the decision handed down by the Québec Provincial Court of Appeal in 2004 that was initiated by the PQ government before being voted out of the National Assembly in 2003. The temporary victory achieved by the PLQ, the representative of the opposition PQ suggested, did not depend upon either a sovereigntist or

a federalist 'strategy.' It was based on a strategy 'of recognizing the most fundamental rights of the Québécois people and of this government, of this Parliament, of this National Assembly.' This shows that beyond differences in political nationalism, both PQ and PLQ governments strived to attain the best recognition possible of Quebecers' 'fundamental rights' to 'better' maternity and parental leave.

When asked during a press conference if she thought that the Supreme Court's final decision –which was handed down in October 2005– would endanger the Canada-Québec Final Agreement that was signed in March 2005, Michelle Courchesne, the PLQ Minister of Employment and Social Solidarity responded by suggesting that:

> Honnêtement, […] je ne vois pas comment le gouvernment pourrait prendre un tel risque à cette étape-ci. […] [Le régime québécois d'assurance parentale] *répond à un défi démographique bien sûr*, mais ça répond à des enjeux de société. Quand on parle de politique de conciliation travail-famille, quand on parle de l'évolution du marché du travail, quand on parle des défis que les jeunes familles ont à rencontrer, je ne vois pas sincèrement comment, dans un an, le gouvernement fédéral pourrait y mettre fin de cette façon-là. (National Assembly of Québec, o: 4 [Emphasis mine])

Here the PLQ minister suggests that the QPIP does not only respond to Québec's demographic challenges but also to other societal challenges and that for these reasons the federal government would be hard-pressed to reverse its administrative agreement with Québec.

Eleven minutes after the press heard from Michelle Courchesne and Benoît Pelletier on the Supreme Court's decision, PQ representatives, Camil Bouchard and Jonathan Valois, responded to the decision handed down by Canada's highest court. Valois, the opposition critic for the Ministry of Canadian Intergovernmental Affairs expressed the following:

> Et ce n'est pas des faits, ce n'est pas des documents, mais bien sûr une interprétation évolutive. Et c'est ça qui est, tant qu'à nous, non seulement déplorable, mais à la limite pourrait devenir dangeureux parce que l'interprétation évolutive, et ce qu'on a appelé… Et le mot qu'on a entendu depuis quelques semaines, qui était celui de l'«intérêt national», il me semble qu'on parle un petit peu la même langue, encore une fois. Lorsqu'on parle de l'interprétation évolutive, on parle de l'évolution de quoi? Bien, du Canada, donc on parle du «nation building» canadien, encore une fois. (National Assembly of Québec, p: 1)

The first thing that is evident in this passage is that for M. Valois, a progressive interpretation of the constitution is not a fact; it is not an object, a deed, a thing performed or

a course of conduct. It is, he claimed, done in the 'national interest' of federal Canada. The Supreme Court of Canada's decision, he claimed, was a federal nation-building endeavour and a progressive interpretation of the constitution is a *federal* 'nationalist' language that places the interest of Canadians and federalists above the interest of Quebecers. The PQ representative also suggested that 'national interest' and 'nation building' are subjective and can be derived from the language of 'national interest' present in court documents and public political discourse.

The ways in which the PQ representative discussed the concepts of nation-building and 'national interest' assumed that Canadian federal nation-building projects were not representative of the needs of Quebecers. That it was a progressive interpretation of the *Employment Insurance Act* that eventually made it possible for adoptive parents as well as men to take time off work to spend with their families after the birth or adoption of a child, was not a factor in the PQ member's rebuke of the Court's decision. Condemning the progressive approach to the interpretation of the constitution also contradicted M. Valois' proceeding statement:

> Alors, sur la base de cette interprétation évolutive, le jugement dit que finalement les sphères socials seront aussi de compétence et pourront être de competence fédérale. On ne le dit pas directement comme ça, sauf que qu'est-ce qu'on fait? Bien, on s'assure d'appeler des femmes enceintes des chômeuses, on s'assure de faire en sorte que les personnes qui vivent des réalités sociales soient beaucoup plus vues dans le prisme d'une étendue, d'un apport économique et donc d'une intervention possible du fédéral. (National Assembly of Québec, p: 1)

Here the PQ representative criticized the progressive interpretation of the constitution –that was responsible for establishing maternity leave for women workers– by claiming that the Supreme Court's decision equates women with unemployed people. This suggests that provincial representatives were willing to make political statements that may have run contrary to the social democratic agendas that were set in the original white paper policy proposals in order to appear to secure jurisdictional sovereignty over the legislation and implementation of Québec's own 'national' parental leave policy.

The public debates that took place over the QPIP created a discourse wherein the Québécois 'population' was not only conceived of as national 'stock' but also as 'private property.' This conceptualization of 'population' was made possible on the public record because the context of sub-state nationalism was one in which social and political actors could determine that the survival of the Québécois 'population' was dependent upon the province's

legislation of the QPIP. This legislation, moreover, was dependent upon the province's assertion of political sovereignty, which was achieved by doing battle with the Canadian federal government over existing jurisdictional provisions in the Canadian Constitution. The legislation of the QPIP, thus, became a means of reiterating sub-state 'national' difference from the rest of Canada in terms of population numbers and political sovereignty.

What the empirical evidence presented in this chapter suggests is that the legislation of maternity and parental leave benefits in Québec after the Canada-Québec Agreement in 2004 was not that different from the legislation of maternity and parental leave benefits administered to the rest of Canada under the *Employment Insurance Act*. However, the way in which Québec legislators and other social representatives in the province presented the bill on the public record in the lead-up to its successful legislation and implementation made the concepts of population, population numbers and demography much more visible. This occurred, at least in part, as a consequence of jurisdictional battles that took place between federal and provincial government representatives. This conceptualization of the Québec Parental Insurance Plan, it is argued, transformed the public presentation of an income replacement plan into a 'pro-natalist' family policy although the content of the policy itself remained similar to the other policy initiatives that belonged to the PQ's original 'white paper.'

As we saw above, jurisdictional battles led Québécois representatives of various political backgrounds to defend the province's legislative sovereignty. They did so by defining the legislation of maternity and parental leave benefits as the 'rights' of Quebecers to be able to have the parental leave program that they wanted. Having the program that they wanted, it was argued, would permit Quebecers to have the number of children that they wanted, assuming that Canada's federal legislation restricted the number of children being born to the members of the Québécois nation. Because, in the context of the QPIP, Quebecers were imagined to have a 'right' to a population and a right to the means of ensuring that that population remained both viable and 'different from' the rest of Canada, the concept of 'population' was represented during the legislation and implementation of the QPIP as something that the minority French-speaking province should 'have' and should also have a right to protect against the possibility of one day not 'having.'

McEwen has suggested that, '[i]n multinational states, where there exists a nation or nations within the state, the recognition of social and other citizenship rights may serve an important

integrative function, reinforcing an attachment to the national state that can complement an identification with an historical-cultural nation within state's boundaries' (2001: 87). In the context of the white paper policies, the concept of 'rights' was used by public representatives to reinforce Québec's position as a 'provincial state' with responsibilities to provide its *own* citizens with social programs. In the context of the legislation of the QPIP, however, the concept of 'rights' was used by public representatives to both reinforce an attachment to the Québécois 'provincial state' *and* to complement Quebecers' collective identification with an historical-cultural nation. This was accomplished by using the legislation of parental leave policy to claim Quebecers' 'rights' to be able to reproduce the *future* population of the Québécois nation.

The articulation of the white paper policies as the 'rights' of Quebecers to have access to better family policies than other Canadians, or the citizens of other nation-states, was often represented in the context of the QPIP in conjunction with demographic data regarding falling birth rates in the province. Thus, the expression of 'rights' in this specific policy context was inextricably bound to the concept of population numbers, 'national' survival and cultural continuity. The legislation of parental leave was justified as the rights of Quebecers to be able to choose to have the number of children that they wanted despite labour market exigencies. However, 'rights' were also claimed in a discourse of 'national' survival and Quebecers' 'rights' to be able to reproduce their own nation in order to guarantee its existence in the future. This kind of public representation, it is argued, was made possible because of the Canadian federal government's refusal to grant legislative sovereignty to the province over the matter of a provincially legislated maternity and parental leave scheme. The federal government's refusal created a jurisdictional battle whereby Québec legislators had something to claim Quebecers' rights against.

Population as Artefact: The Banal National Representation of Population as 'Property'

So far it has been argued that like the observations that have been made regarding the relationship between nationalism and social policy, so too are there important observations to be made regarding the relationship between social policy, nation-building objectives and the concept of population. Like social policies, population policies such as the QPIP are often articulated as being or representing the rights of the specific individuals who claim association in the national polity wherein the policies are legislated and implemented. However, unlike social policies without a 'population' dimension, population policies, or

'pro-natalist' policies, often help legislators to claim that not only do the members of the nation have 'rights' to programs but so too do the future members of nations have 'rights' to programs legislated in the nation in which it is assumed they will be born. Although the concept of futurity allows legislators to represent social policy in the name of 'bettering' society for future members, it does not play as central a role in the 'preservation' of the nation as it does in the context of policies with population dimensions.

As was argued above, much has been said about the representation of nationality, nationalism, and even personages, languages and censuses as cultural artefacts (Anderson, 1991: 4; Handler, 1988: 152-3; Hobsbawm, 1990: 111, 161). Hobsbawm has also considered the extent to which groups in the late twentieth century have formed the consciousness of a 'right' to form sovereign nation-states (1990: 164). However, not very much has been said about the representation of a 'population' as an artefact or property that a nation or a group can 'have,' or, 'have a *right* to.' The existence of a consciousness of 'having,' or 'belonging to' a population can be traced through two main historical periods. Philip Kreager borrows from Alfred Sauvy's *Théorie Générale* to illustrate the main definitional differences between the concept of 'population' as it was characterized during the *ancient régime* and the concept of 'population' as it belongs to the era of modern 'nation-states.' After 1800, Kreager argues, the preoccupation with population numbers as they were tied to 'optimum power' became gradually –with the help of Malthus– replaced with the idea of an 'economic optimum' whereby the development of 'nation-states' depended on the optimal material conditions available to a population (1992: 1640-1).

However, the evidence of the Second World War, it is claimed, demonstrated to Sauvy that the ideological power of 'population numbers' was not restricted to the preoccupation of ideologues during the *ancient régime*, but that nationalism and the power of population numbers in the twentieth century came to correspond to a collective objective that assumed collective goals and national duties (Kreager, 1992: 1641). When attempting to redefine *how* one belongs to, or, how one *has* a population, Kreager borrows from German nationalist authors such as Herder and Fichte to suggest that in certain nationalist formulations the individual has no value except that value which he or she has in the nation. The identity that one shares with the nation is not necessarily a series of characteristics that one shares with a family or a community but rather an identity that corresponds to a more profound personal identification (Kreager, 1992: 1646). Kreager concludes his redefinition of 'a national population' by showing that a consequence of the theory of the German nationalists is that

the role of the state becomes the pursuit of policies that facilitate the convergence of individual achievements in a harmonious national project. The implications of this latter conclusion help to illustrate the extent to which the 'collective' nation-building project of the QPIP is couched in the language of 'rights,' national belonging and cultural continuity.

First of all, in order to formulate an awareness of a population as something that a 'people,' or, a 'nation' has a 'right' to, it is first necessary to suggest that a population is something that people can 'have.' Because, in the political party representations that are being analyzed in this thesis the idea of having a 'property' in a 'population' is one analytical focus, it is important to re-state where this analytical logic stems from. It is of a keen interest that the question originally formulated for the Québec Provincial Court of Appeal by the Attorney General of Québec in 2002, asked whether the federal *Employment Insurance Act* encroached upon provincial legislative competence, or more particularly, on property and civil rights.[7] The answer to this question in the Appellate Court was: Yes, s.22 of the *Employment Insurance Act* encroaches upon provincial legislative competence over property and civil rights.

However, on 20 October, 2005, the Supreme Court of Canada struck down the Appellate Court's decision thereby making the answer: No, s.22 of the *Employment Insurance Act* does not encroach upon provincial legislative competence over property and civil rights. If we can imagine that the Supreme Court of Canada upheld the Appellate Court's decision, it would have meant that legislative competence over maternity and parental leave benefits would have been constitutionally recognized as a property and a civil right. This suggests that there is a relationship between the concepts of property, rights and the legislation of social policies. This relationship was exacerbated in the context of the QPIP, it is argued, because of jurisdictional battles that took place between federal and provincial representatives in Canada and Québec.

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[7] Paragraph 78 of the Supreme Court ruling sets out the original question posed by the Québec Provincial Court of Appeal as:

> Question 1: Does s.22 of the *Employment Insurance Act* encroach upon provincial legislative competence and, more particularly, provincial legislative competence over property and civil rights and matters of a merely local or private nature under ss. 92 (13) and 92 (16) of the *Constitution Act, 1867*? (Supreme Court of Canada)

In his conceptualization of Québec's *patrimoine*, a term that 'refers to historic buildings and monuments, antiques, ethnographic objects, and works of art,' Richard Handler explains that:

> to speak of the *patrimoine* is to envision national culture as property, and the nation as a property-owning "collective individual." Thus the concept typifies what I have called an objectifying logic. It allows any aspect of human life to be imagined as an object, that is, bounded in time and space, or (amounting to the same thing) associated as property with a particular group, which is imagined as territorially and historically bounded. (1988: 140-2)

Handler also suggests that the preservation of a culture depends in part upon the 'sacralizing' of objects and personages so that they can become part of the *patrimoine* (1988: 152-3). This process of 'sacralization' takes place by surrounding objects and personages 'with rules designed to isolate them from social space and historical time' (Handler, 1988: 152). The source of the spread of the 'sacred,' moreover, can be located in 'the relationship of patrimonial property to the collective individual' (Handler, 1988: 153). This relationship between patrimonial property and the collective individual is, arguably, reproduced in the language of demographic deficits, population numbers, nation-building and social programming. During the legislation and implementation of the QPIP, social and political actors used the language of rights to create both 'difference' between Quebecers and Canadians and 'sameness' among the members of the Québécois population.

Having a 'right' to this exclusive membership in the Québécois population –to which one belongs by virtue of birth– is like having property in a collective individual. To reproduce the Québécois population is like having individual property rights to a group that is bounded in space and time. The Québécois nation is territorially, historically and –on account of its sovereignty over some social policies– *legislatively* bounded. Because of its territorial and cultural history the nation is objectified so as to appear unchanging. It is reproduced socially through its cultural and political institutions. And, in order to preserve its existence, the individuals who make up the nation are encouraged to reproduce themselves.

Conceptualized as a cultural artefact, or, a property, a 'population,' it is argued, can be articulated by political party representatives in the Lockean sense as something that people 'have' by virtue of 'having' property in themselves and by extension in the dependents that they reproduce. It is by 'having' children that individuals can maintain the objectifying logic of the *patrimoine* –by reproducing the property that one has in his or herelf, the individual is also reproducing the nation in which similar individuals claim association. Maintaining

population numbers is like maintaining what Benedict Anderson and Richard Handler call 'continuity.' The concept of continuity holds that '[i]n principle the national entity is continuous: in time, by virtue of the uninterruptedness of its history; in space, by the integrity of the national territory' (Handler, 1988: 6).

Handler explains how John Locke's labour theory of value is used to describe the ways in which individuals can come to 'own' territory and the resources that that property rears even though the earth has been given to its inhabitants by God to share in common. The political philosopher, Handler claims, concedes that by virtue of treating the human body and its labour as property in and of itself, it is possible to imprint one's self onto natural objects (Handler, 1988: 153). 'Moreover, if on the one hand those things become his property, on the other hand the individual comes to be defined by the things he possesses' (Handler, 1988: 153). If, furthermore, as Handler has suggested, 'existence is a function of possession,' identifying a 'population' as something that one 'has' confirms its existence to the 'imagined community' of Québec (1988: 153). The concept of 'continuity,' it has been suggested, was also formulated in the context of political party discourse as the assumption of pro-natalist policy advocates that, in principle, the accumulation of 'population,' or, property, in the interest of the nation, is a fundamental expression of national preservation in the face of cultural extinction and the power of the Canadian federal state.

So how might a critical analysis of pro-natalism and nationalism help us to better understand the relationship between the concept of population, social policy and nation-building in a sub-state nation? Contemporary pro-natalism often takes the form of normative social policy but is articulated in a manner that calls attention to one specific 'stock' or group of people. That group, moreover, is made to understand that it is 'different from' all other groups. This occurs when state policies directed at them are expressed in terms of their 'rights' to better policy. One of the ways in which the concept of rights was expressed in the context of the legislation of the QPIP was in a language of cultural and national continuity; that is, Quebecers were supposed to understand that the QPIP was not only for them but it was also for all the Quebecers who will exist in the future.

Benedict Anderson asks: 'Who experiences *their* child's conception and birth without dimly apprehending a combined connectedness, fortuity, and fatality in a language of "continuity"?' (1991: 11) In this chapter it has been suggested that jurisdictional battles between federal and provincial government representatives made it possible for individual

Quebecers to experience *their* children's conception and birth in a language of 'continuity.' This was made possible because political party discourse concerning increased birth rates was deeply connected to a sense of 'nationhood' but was also intricately interwoven into a language of individual and property rights. That is, in the context of the legislation of the QPIP, 'pro-natalism' was intricately interwoven into a language of individual rights whereby a 'population' was represented as something that one *can have* and can also *have a right to have*. To forgo this 'right,' it was determined, is comparable to giving up membership in the 'nation.'

By virtue of 'having' and 'having a right to' the Québécois 'population' that Québécois citizens reproduce, this population then becomes a cultural artefact in uninterrupted time and bounded space. In the context of 'pro-natalist' policy the term 'population' is often relocated by political representatives from its usage in demography, statistics and policy analysis to the realm of 'culture,' and is treated as an artefact that needs preservation to ensure its existence in the face of decline and extinction. One of the reasons why political party nationalists in Québec were capable of making claims to Québec's sovereignty over maternity and parental leave benefits in a discourse of 'rights' was that it was possible for them to compare 'their' population to the population of Canada and it was also possible for them to compare 'their' parental leave program with that of the Canadian federal government.

Part of the 'nation-building' project of attaining legislative sovereignty over the maternity and parental leave benefits plan, it has been shown, was closely related to the concept of a uniquely Québécois 'population' that was imagined to be threatened by a large Canadian population and the encroaching centralizing power of the Canadian federal state. This threat, moreover, was depicted as an intrusion upon the individual rights of the Québécois people to have the population that Québécois nationalists claimed they should be free to choose to have. In both the PQ and the PLQ's public representations of the QPIP and Québécois national culture, the 'Québécois population' was represented as *more* authentic than the reproduction of any other population.

When prompted to respond to the fact that the Canada-Québec Agreement (which took precedence over the Supreme Court's judgment) limited the Supreme Court's final judgment because the administrative agreement had already been struck, PQ representative Jonathan Valois stated:

> L'entente sur les congés parentaux, c'est une entente administrative, une entente administrative de gré à gré ou n'importe quelle des deux partenaires peut la résilier. Alors, évidemment qu'une entente administrative, là, c'est bien sympathique. On voulait une entente, nous, depuis 10 ans qu'on voulait une entente. Il faut se rappeler aussi de toute l'historique de ce dossier-là ou, pendant 10 ans, on voulait que le gouvernement fédéral nous lègue cette responsabilité-là, parce qu'on voyait qu'il y avait un problème démographique, ici, depuis 10 ans. (National Assembly of Québec, p: 2)

This comment suggests that the members of the PQ were wary of the administrative agreement because it is something that can be overturned by the federal government. According to Valois it challenged the nationalist struggle in Québec to be sovereign over the administration of social policy. Furthermore, it ostensibly glossed over the PQ's struggle to respond to Québec's 'demographic problem.'

The QPIP was argued by Québec legislators to be a social program in order to secure provincial legislative authority over the matter. However, once the jurisdictional battles were resolved between federal and provincial government representatives by means of the administrative agreement, the plan was administered as an insurance plan, rather than as a social program. This demonstrates that jurisdictional battles were as much about Québécois nation-building endeavours as they were about legitimate juridical encroachments by the Canadian federal government.

That the representation of a Québécois 'population' depended on the legislative authority of an *authentically Québécois* parental insurance plan was 'arbitrary' in the sense that many of the things in modern society that are taken to be *authentically Québécois* are not all that much different from things found in other cultural populations in Canada and around the world. This is perhaps best illustrated through the following example. The Minister of Employment and Social Solidarity, Michelle Courchesne, opened the parliamentary session on 31 May 2005 by quoting from memoranda sent to her by trade union and social groups after the agreement was reached between Canada and Québec concerning the constitutional viability of the Québec Parental Insurance Plan. After citing organizations' satisfaction with the federal-provincial agreement, she quoted *mamanpourlavie.com*, which is 'a fantastic website, entirely Québécois, devoted to parents and future parents from here [d'ici]' (National Assembly of Québec, g: 2 [Tranlsation mine]). The website that the minister quoted from, which disseminated information about birthing, infant and maternal health, breastfeeding, pregnancy and labour experiences, also made available all government information related to the QPIP, the federal maternity benefits plan, day care services, and

health care services. Funded by companies such as Toronto-based Stem Sciences Inc., the American-based formula producer, Similac, as well as Homeocan, the Canadian parent company of American-based Homeolab, and the Universitas Trust Funds of Canada, a Canadian non-profit company, the website was a means for the Parti Libérale du Québec to circulate news about the superiority of its family policies to federal family policies, including the QPIP.

That the minister enthused the fact that the website was 'entirely Québécois' designed for 'parents d'ici,' echoed the muses of former PLQ Minister for Cultural Affairs in 1975-6, Jean-Paul L'Allier's green paper, 'a scathing critique of federal cultural policy' (Handler, 1988: 124). Meant to appease the more staunchly nationalist PQ members that would defeat him the year the paper was produced, L'Allier's paper was a polemical piece that articulated arguments against the rise of multiculturalism rather than biculturalism, and the federal government's responsibility for overseeing 'French-Canadian' cultural affairs rather than Québec's responsibility for its own 'Québécois' culture. Richard Handler argues that this struggle with identity produced 'a characteristic affirmation of national existence' and quotes the following from the green paper:

> Québécois culture is at bottom nothing other than that projection of ourselves, the people from here [gens d'ici], starting from what we have been and what we are and including what we wish to be. It is no better or worse than the culture of others; it is *we* [elle est *nous*].
>
> Throughout Québec, often without knowing one another, we have a culture in common. (Ministry of Cultural Affairs of Québec; 221, quoted in Handler, 1988: 127).

This idea that the people 'from here' define a place, or, a territory rather than a territory defining a people, or, 'population' has implications for the way governments define and publicly project policy relating to the preservation of a 'Québécois culture.' Politicians do not support policies in the interest of individuals or communities, but rather in the interest of 'the concept of a nation.' In Handler's opinion governments with nationalist agendas do not create authentic institutions or authentic cultures but, instead, they create an indefinite repetition of interpretive national cultures (1988: 130). This process is nourished by both positive and negative visions of identity, which fail to ever create the one true Québécois culture, or, population, that they imagine partly because of the 'epistemological inadequacy of the notion of authenticity' (Handler, 1988: 131-2).

Thus, Michelle Courchesne's reference to the website and her 'authentication' of its representativeness of a 'Québécois' culture, developed specifically for people 'from here,' was inadequate in the sense that what the representative of the PLQ believed to be the irreducible identity of the Québécois nation 'from here' was no more expressed in the incessant Québécois preoccupation with fertility than it was in the American and Canadian industries of pabulum, natural flu remedies, and cord blood banks.

Conclusion

In this chapter it was argued that the relationship between population, social policy and nation-building was made much more explicit in the context of the Québec Parental Insurance Plan because of the jurisdictional battles that took place at the judicial level regarding the legislative sovereignty of both Québec and Canada over the administration of maternity and parental leave benefits. It was argued that because maternity and parental leave benefits belonged to Canadian federal jurisdiction, it was necessary that social and political actors in Québec claim the legislative policy as the 'right' of Quebecers to be able to have the parental leave plan that they wanted in order to be able to encourage Quebecers to birth more Québécois children. The representation of the QPIP as Quebecers' 'right' to be provided with a better benefits plan than that offered by federal Canada as well as to be able to choose to have the number of children that they wanted is different from the conceptualization of other social policies without population dimensions as a 'right.' This is because social and political actors' public conceptualization of the pro-natalist QPIP as the 'right' of Quebecers suggests that the 'nation' must not only be socially reproduced by means of its political institutions such as the National Assembly which is responsible for provincial policy legislation, but that the nation has a population that must also be reproduced biologically in order to ensure the survival of the national culture in the future.

The representation of the QPIP as a 'right,' moreover, gave the Québécois 'population' attributes similar to those of a property. A population, it was argued, can be conceived of as a property in national societies where the legislation of social policies takes the form of nation-building projects. The characteristics of nation-building projects with population dimensions become more visible in the context of jurisdictional battles because a population, like a nation, can only be imagined in the context of other populations. Thus, in the context of the QPIP, the 'rights' of Quebecers to have their own parental leave plan in order to control their own 'national' population stock, were claimed against the centralizing forces of

the federal Canadian government. The jurisdictional disputes that took place between the representatives of both the Province of Québec and the Canadian federal government allowed national provincial leaders to represent the QPIP as the 'right' of Quebecers to rectify the demographic deficit in the province and to ensure the Québécois population against extinction within the Canadian federal state.

The cultural, political and territorial boundaries of Québec were made explicit during the legislation and implementation of the Québec Parental Insurance Plan because the legislative policy had to be claimed by nationalist political actors in Québec against the federal jurisdiction of the Canadian state. This demonstrates that there is a relationship between the concept of population as the 'property' of the nation, which is imagined to remain unchanging through time, social policy legislation and nationalism in Québec. This relationship exists because the population of Québec is primarily conceived of as 'different' from all other populations beyond its borders by virtue of its minority status as a sub-state nation within federal Canada. The evidence of this logic, which can be observed in the context of the QPIP, demonstrates the extent to which social policy with a population component plays a crucial role in our understanding of nationalism, national identity and nation-building.

Chapter 6: Jurisdictional Battles and the Problem of Gender Equality and the Family for Québec's Parental Insurance Plan

As we saw in chapter 4, Bill 140, which was part of a package of family policies proposed in Québec in the late 1990s, had, like its counterparts, the purpose of granting men and women equal opportunities for employment and 'return-to-work' policies, providing income stabilization for individuals with precarious ties to employment and reducing financial hardship, especially among single-parent families. During the legislation of the Québec Parental Insurance Plan (QPIP) it was claimed by many social and political actors that the provincial parental leave plan was concerned with increasing gender equality and the universality of the maternity leave program's benefits, making more Québécois women eligible for benefits than were previously eligible under the federally administered plan. However, an analysis of the judicial as well as the legislative debates that took place on the subject of the provincial legislation of a parental leave program in Québec suggests that the plan was not only represented in the context of the original social democratic objectives that were set for it. Because of jurisdictional battles between federal and provincial levels of government, legislators of the Québec Parental Insurance Plan began to use the plan to showcase the necessity of provincial legislative sovereignty over the matter in order to deal with Québec's 'demographic' problems. The way in which political independence over the parental leave plan as well as Québec's struggles to maintain equal proportions of Canada's overall population was expressed, as it was argued in the chapter above, was in a discourse of rights.

The public articulation of the parental leave plan in a discourse of rights helped to transform the normative social policy on maternity and parental leave benefits into an implicitly and explicitly pro-natalist policy. This chapter will explore the ways in which Bill 140 interacted with other policy agendas such as gender equality and employment opportunity; it will challenge the claim made by social and political actors that the QPIP was fundamentally about gender equality by discussing whether or not the judicial manoeuvring concerning the definitions of parental leave were undertaken for the purpose of maximizing Québec's legislative autonomy rather than for the purpose of increasing gender equality in the province. This analysis will suggest whether or not jurisdictional battles over legislative sovereignty made issues of gender equality less visible and questions of population, demography and falling birth rates more visible on the public record.

This chapter situates discourses on gender equality, employment opportunity and work-life balance, all principles which were integral to the public conceptualization of the PQ's 1997 white paper policies, in the context of the jurisdictional disputes that took place over legislative sovereignty and the Québec Parental Insurance Plan. These judicial and legislative disputes suggest that in order to secure legislative sovereignty over the matter of maternity and parental leave benefits, Québec representatives were willing to forgo previous arguments made in the context of Bill 140, as well as the other white paper policy legislation, that promoted gender equality, especially with regard to men and women's equal participation in both paid and unpaid work.

This section of the thesis does not make the argument that the legislation of the QPIP systematically discriminated between men and women based on gender but rather that the jurisdictional disputes that took place with regard to Québec and Canada's legislative sovereignty over the matter of maternity and parental leave benefits led some social and political actors to claim that men and women's attachment to the labour force as well as their roles in parenting were necessarily different. This occurred because Québec's judicial claim to sovereignty over the legislation of maternity and parental leave benefits was based on the argument that maternity leave is a social program rather than an insurance scheme. The judicial logic of this argument, furthermore, maintained that maternity leave should be based on an individual's ability to become pregnant rather than a need to take time away from paid employment to spend with a newborn infant. This differed from the federal government's argument that maternity and parental leave benefits are necessarily income replacement benefits that are claimed as a result of the loss of employment. This logic was based on the supposition that an insurance plan provides benefits to any one individual who loses his or her income in the event of loss of employment, which, in turn, is due to a catalyst that is independent of any one individual's will.

Insurance Plan versus Assistance Program: The Appellate and the Supreme Courts' Decisions

As it was discussed in chapters 4 and 5, social and political actors in Québec took a judicial route to establish the legitimacy of the Québec Parental Insurance Plan. This involved making an appeal to Québec's highest court, the Québec Appellate Court, claiming that the legislation and implementation of the QPIP by the Québec provincial government should be constitutionally valid on the grounds that maternity and parental leave benefits were

essentially a matter of social programming and not a matter of income replacement. The Attorney General of Québec posed the following question to the Québec Appellate Court:

> Question 1: Does s.22 of the *Employment Insurance Act* encroach upon provincial legislative competence and, more particularly, provincial legislative competence over property and civil rights and matters of a merely local or private nature under ss. 92 (13) and 92 (16) of the *Constitution Act, 1867*? (Supreme Court of Canada)

According to the Appellate Court judges, s.22 of the *Employment Insurance Act*, relating to maternity and parental leave, did encroach upon provincial legislative competence. In their decision the Appellate Court judges claimed that:

> [75]   The pregnancy and parental benefits contemplated in sections 22 and 23 of the Employment Insurance Act are not at all part of the unemployment insurance canvas conceived in 1940. These special benefits are not paid further to the loss of a job for economic reasons; rather, they are paid further to the interruption of an individual's employment because of a personal inability to work. They are, in fact, social welfare payments that cannot easily be considered insurance, which presupposes a catalyst independent of the recipient's will. These benefits must be seen instead as an assistance measure for families and children—that is, as a social assistance measure and a laudable one at that. (Québec Cour d'Appel)

In this conceptualization of maternity and parental leave benefits it is claimed that maternity leave is administered on the basis that pregnancy is the woman's will and is not, like the loss of a job, illness, or injury, based on chance. This is the reason why the maternity and parental leave benefits laid out in ss. 22 and 23 of the federal *Employment Insurance Act*, were argued by Québec representatives to be a social assistance measure for families and children rather than a form of insurance or income replacement.

This conceptualization of pregnancy is much different from federal government representatives' and Canadian Supreme Court Justices' conceptualization of pregnancy as it was established in the Supreme Court ruling regarding constitutional jurisdiction over maternity and parental leave benefits. When the Attorney General of Canada posed the same question to the Supreme Court of Canada as the one posed above to the Québec Appellate Court, the Supreme Court Justices answered: no, ss.22 and 23 of the federal *Employment Insurance Act* do not encroach upon provincial legislative competence over property and civil rights and matters of a merely local or private nature. Rather, the Supreme Court Justices explained the following in the preamble to their decision:

> […] the pith and substance of the maternity benefits is consistent with the essence of the federal jurisdiction over unemployment insurance, namely the establishment of a

public insurance program that is based on *the concept of social risk* and the purpose of which is *to preserve workers' economic security and ensure their re-entry into the labour market by paying income replacement benefits in the event of an interruption of employment.*

[…]

An interruption of employment due to maternity can no longer be regarded as a matter of individual responsibility. Women's connection to the labour market is well established, and their inclusion in the expression "unemployed persons" is as natural an extension as the extension involving other classes of insured persons who lose their employment income. [37] [39] [48] [56] [66] [68] (Supreme Court of Canada [Emphases mine]).

Further to that, paragraph 77 of the Supreme Court Justices' decision read:

The evolution of the role of women in the labour market and of the role of fathers in child care are two social factors that have had an undeniable economic impact on individuals who are active participants in the labour market. A generous interpretation of the provisions of the Constitution permits social change to be taken into account. The provincial legislatures have jurisdiction over social programs, but Parliament also has the power to provide income replacement benefits to parents who must take time off work to give birth to or care for children. The provision of income replacement benefits during maternity leave does not trench on the provincial jurisdiction over property and civil rights and may validly be included in the EIA. [77] (Supreme Court of Canada)

According to the federal *Employment Insurance Act* (EIA), (the act to which federally legislated maternity and parental leave benefits are subject), men and women workers have equal relationships to the workforce. Both men and women are insured against the possibility of being forced out of paid employment in the event of job loss, illness, injury, or necessary infant care, subsequent to a biological birth or an adoption. Pregnancy, according to the EIA, is assumed to be of the same random character as job loss, illness, or injury that prohibits an individual's participation in paid employment. It is for these reasons that it was claimed by representatives of the Canadian federal government that maternity and parental leave benefits are necessarily income replacement benefits rather than benefits subject to social programming.

Thus, according to the Supreme Court of Canada, it is assumed that maternity and parental leave is primarily concerned with the potential risk for an individual to be forced to leave paid employment. Child-bearing and child-rearing, according to the Supreme Court, creates a potential loss of paid employment in the same way that losing one's job could potentially create a period of unemployment in any one individual's life. The Supreme Court Justices'

decision, unlike the Appellate Court Justices' decision, assumes that pregnancy and the subsequent care given to a child is *a catalyst independent of an individual's will*. This suggests that the potential for anyone to need to take time away from paid employment to care for a newborn or newly adopted child at any given time is deemed to be the collective risk of Canadian society, the responsibility for which falls upon men and women equally regardless of any one Canadian's ability to choose to become pregnant or to adopt a child.

As it is stated in paragraph 48 of the Supreme Court Justices' decision, there are 'four characteristics that are essential to a public unemployment insurance plan':

(1) It is a public insurance program based on the concept of social risk
(2) the purpose of which is to preserve workers' economic security and ensure their re-entry into the labour market
(3) by paying temporary income replacement benefits
(4) in the event of an interruption of employment [48] (Supreme Court of Canada)

The Supreme Court of Canada's decision with regard to maternity and parental leave benefits emphasized these four points, all of which tended to reinforce the original intentions of the PQ's white paper policies. Those intentions were to increase economic security for low-income families with precarious ties to paid employment and to ensure equal 'return-to-work' opportunities for men and women who choose to leave paid employment for the purpose of caring for a child or for other reasons.

However, during the judicial debates over the legislative jurisdiction of maternity and parental leave benefits it was claimed by the Attorney General of Québec that parental and maternity leave benefits were necessarily a matter of social programming rather than income replacement benefits. This judicial decision necessitated a juridical change in the definition of men and women workers' relationship to employment. Instead of 'insuring' workers against the possibility of unemployment, maternity and parental leave benefits were defined as social benefits to assist women who voluntarily leave the workplace to birth children. Rather than being insured against the possibility of being unemployed, a concept that pertains to men and women equally under federal legislation, it was claimed by the Québec Appellate Court judges that maternity and parental leave benefits should be a matter of social assistance to support the act of birth rather than the time that parents take away from paid employment subsequent to the birth or adoption of a child.

The logic of the Appellate Court judges, who ruled in favour of granting Québec jurisdictional sovereignty over maternity and parental leave, made it necessary to discriminate between men and women's attachment to the labour force as well as men and women's participation in parenting. This occurred because of a sub-state national logic that was reproduced in Québec during the legislation of Bill 140. According to this logic maternity and parental leave was necessarily a social program that was subject to provincial legislation rather than an income replacement plan. Therefore, the 'law' identified maternity and parental leave as a social program that supported the act of giving birth. This logic opposed the Canadian federal government's more broad definition of maternity and parental leave benefits, which were, and continue to be, administered for the purpose of insuring any one individual against the time that he or she may have to take away from paid employment to care for a newborn or newly adopted child.

By claiming that parental leave was necessarily a 'social program,' or a matter of a local and private nature, it was necessary that the Québec Appellate Court judges make the argument that maternity leave was fundamentally about the act of giving birth. This suggests that the logic of sub-state national legislative sovereignty in Québec necessitated that the members of the 'nation' for whom the policy was claimed, be defined by the act of being birthed rather than by the act of being cared for. This judicial manoeuvring, it will be argued, systematically discriminated between men and women workers' relationships to paid employment. This discrimination, moreover, demonstrates that, in the context of the legislation of Bill 140, the substantive intentions of Québec legislators were to prioritize the political sovereignty of the nation over the social benefits of gender equality and employment opportunity. This prioritization of political sovereignty over other political agendas such as gender equality and social democracy, it will also be argued, made the concepts of population and population growth in the province, more visible on the public record.

The Québec Appellate Court's decision emphasized the fact that maternity leave was considered to be about the act of giving birth itself rather than the time that is taken away from paid employment and should, therefore, not be considered a social risk. This, it was claimed, was because pregnancy was dependent upon the recipient of the benefits' will, meaning that women's attachment to the labour force should be considered different from men's because women can choose to become pregnant whereas men cannot. What these judicial definitions illustrate is that, above all, Québec political and judicial actors were

interested in claiming jurisdiction over maternity and parental leave even if it was at the expense of the social and gender equality established in the federal *Employment Insurance Act* and the social democratic objectives set by PQ members in the original 'white paper' policy proposals. The Supreme Court of Canada emphasized the fact that changing gender roles such as women's roles in the labour market and men's roles as fathers and primary caretakers, warranted that the law treat them equally when it comes to ensuring that parents are provided with leave from paid employment after the birth or adoption of a child. However, in order to prove that maternity and parental leave benefits were necessarily a social program rather than an insurance against the social risk of becoming unemployed, Québec representatives had to argue against the logical extension of the EIA, which suggests that men and women should be treated equally by the law with regard to insurance against the loss of income due to an absence from paid employment.

The Québec Parental Insurance Plan and the Feminist Agenda

The feminist agenda was made explicit by both policy legislators and social organizations during public discussions of both the QPIP and the PQ's other 'white paper' policies. For example, in the context of Bill 145, the legislation that led to the implementation of 5-dollar-a-day day care, it was made clear that affordable day care would help women to return to work after having a child without being hampered by inflexible and expensive child care facilities and costs. On 5 June, 1997, in response to a representative of the *Conseil du Statut de la femme*, Mme. Diane Lemieux, in the National Assembly, PQ member Jean-Claude St-André, stated:

> On se retrouve dans un monde où, de plus en plus, les marchés financiers, les grandes corporations nous parlent de profits, de rendements, de productivité. Le marché du travail est de plus en plus exigeant pour ses travailleurs. On assiste à une «précarisation» des emplois, d'une façon générale. On l'observe, entre autres, aux États-Unis. C'est un phénomène extrêmement marqué. Les riches s'enrichissent, les pauvres s'appauvrissent, et je suis particulièrement frappé de constater, lorsque je rencontre des parents – des pères et des mères – à quel point les mères, particulièrement, encore, s'imposent des sacrifices qu'elles ne feraient peut-être pas autrement, feraient peut-être des choix différents si, vraiment, elles avaient des choix.
>
> Combien de femmes m'ont dit que, suite à une grossesse, elles avaient perdu leur emploi ou elles avaient été obligées de quitter leur emploi, suite à des pressions de leur employeur, malgré les chartes des droits et des libertés qui existent pourtant. Nous autres, on sait à quel point c'est difficile à démontrer en droit. Combien de femmes, malheureusement encore aujourd'hui, décident de rester à la maison plutôt que d'aller sur le marché du travail parce qu'elles ne peuvent pas s'occuper de leurs enfants, parce

qu'elles estiment qu'en étant sur le marché du travail elles ne peuvent pas s'occuper de leurs enfants adéquatement?

D'après moi, c'est une question qui m'apparaît particulièrement importante et on constate, encore une fois, que trop peu d'hommes se posent ce genre de questions-là. À votre avis, qu'est-ce que peut faire un Parlement, que peuvent faire les députés, que peut faire le gouvernement pour susciter la réflexion de ce côté-là, pour aller plus loin, pour élargir le débat? Parce qu'il me semble que, de plus en plus, on cherche à mettre les citoyens au service du système économique alors que c'est plutôt le système économique qui devrait être au service des citoyens et des familles. (National Assembly of Québec, v: 14)

The feminist agenda also played a role in the context of Bill 112, Québec's law against poverty, because the bill was meant to encourage women, especially single mothers who were previously socially excluded from paid employment, to seek professional development. According to Waller, '[o]ver the course of 1995 to 2002, women played central roles in the creation of the popular bill through the leadership of the FFQ [*Fédération des femmes du Québec*] and its networks of women's groups spread across Québec' (2008: 11). On 2 October, 2002, representative of the organization *Conseil d'intervention pour l'accès des femmes au travail* (CIAFT), Mme. France Tardif, expressed the following:

Alors, comme on se base sur tous les instruments de droits, droit au travail, qui sont autant... qui valent autant pour les hommes et pour les femmes, on demande que des mesures plus spécifiques par rapport au droit des femmes au travail, particulièrement aux femmes défavorisées, puissent être incluses dans le projet de loi, par exemple un véritable programme d'insertion sociale et professionnelle, de mesures d'orientation, d'accueil des personnes peu scolarisées et exclues et de mesures facilitant l'accès marché au travail des femmes responsables des familles monoparentales.

On veut aussi qu'il y ait des mesures de conciliation plus précises et de façon... ne pas laisser libre choix aux employeurs nécessairement par rapport à toutes ces mesures-là. Et on voudrait aussi que le travail des femmes auprès des enfants soit reconnu d'une façon, par exemple, qu'on pourrait financer, au nom du parent ayant la charge principale des enfants, 50 % de la contribution maximale du RRQ pendant les cinq premières années de vie de l'enfant. Ça permettrait aux femmes qui restent à la maison pour élever les enfants d'avoir un meilleur de RRQ par la suite.[8] (National Assembly of Québec, w: 6)

The feminist agenda was also visible in the early stages of the Québec Parental Insurance Plan's legislation by the Parti Québécois in 2000-2001. One of the most important components of the plan that was advocated by both political leaders and interest group

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[8] The *Régie des Rentes du Québec* (RRQ) is the government agency that is responsible for overseeing the allocation of child support funds, public retirement pensions, as well as disability pensions and income support for families with children with disabilities. During the PQ's legislation of Bill 140 the RRQ was made responsible for the administration of the QPIP; however, when the PLQ legislated Bill 108 in 2005, that responbility was shifted to the *Conseil de Gestion d'Assurance Parentale* (CGAP).

representatives was the increase in the amount of time that was granted to fathers for paternity leave. This, it was argued, was to play a role in breaking down traditional social roles with regard to parenting, both men and women's responsibilities in raising children and women's return to paid employment after the birth of a child. On 26 September, 2000, representative of the organization *Force Jeunesse et Mouvement pour les bébés du millénaire*, Mme. Myriam Coulombe-Pontbriand, expressed the following with regard to the importance of paternity leave and social equality:

> Maintenant, je vais vous parler rapidement de la situation des pères, situation que je trouve d'autant importante dans le cadre de mon travail, entre autres, cet été, à l'analyse de qualité de données sur l'attachement parents-enfants. Je pourrais vous dire qu'il y a un lien très important entre le degré d'attachement d'un père envers son enfant et la présence de celui-ci durant la première année de vie d'un enfant. Cet attachement-là est également influencé par le sentiment de responsabilité du père envers son enfant. Je me demande, parmi vous, messieurs, il y en a combien qui ont pris un congé de paternité. Il y en a combien aussi, là... Vous savez, un congé de paternité, présentement, dans la fonction publique, c'est trois jours, dont un seulement rémunéré. C'est de prendre conscience du message social qui est envoyé, là, dans les rôles.
>
> […]
>
> Alors, ce que je pourrais vous dire, c'est que c'est extrêmement important, l'attachement père-enfant, mais il y a d'autres conséquences, il y a d'autres répercussions également à l'attachement père-enfant. Il n'y a pas juste la relation qui se développe envers l'enfant, mais il y a aussi tout l'impact sur la famille. Principalement, encore aujourd'hui, en l'an 2000, c'est les femmes qui sont les principales responsables des tâches familiales au quotidien.
>
> Les mesures gouvernementales actuelles renforcent les rôles sociaux traditionnels. C'est quoi, le message qui est envoyé à la population? Les femmes s'occupent principalement des enfants, les pères sont les principaux pourvoyeurs. La problématique de ce message-là, c'est que c'est les femmes qui, dans la première année de vie, s'occupent principalement des enfants, mais, une fois sur le marché du travail, c'est encore sur elles que reposent les principales responsabilités familiales quotidiennes. Et ça, ça ne se fait pas du jour au lendemain, quand les femmes retournent sur le marché du travail, que les tâches, comme par hasard, vont être séparées équitablement entre les hommes et les femmes, et les femmes... Bien, en fait, cette situation-là est une des plus problématiques pour l'avancement des femmes sur le plan professionnel. Alors, c'est pourquoi on considère que c'est particulièrement important.
>
> […]
>
> J'aimerais conclure en vous disant que prendre des décisions politiques concernant la famille d'aujourd'hui, c'est prendre des décisions politiques qui vont influencer l'avenir de la société, et on considère que prendre des décisions politiques concernant l'implication et également l'accès des pères aux congés de paternité doit être traité

comme un problème politique, et c'est donc de votre responsabilité. (National
Assembly of Québec, a: 13)

Furthermore, during the legislation of Bill 140 in 2000-2001, both legislators and representatives of social organizations advocated the importance of legislating the QPIP as a 'social program' because it was assumed that this would eliminate some of the characteristics of the EIA benefits that denied certain women access to maternity benefits. According to both social and political representatives in the province, maternity and parental leave benefits were deemed to be essentially a matter of social assistance. They were to be administered by the provincial government in the manner of all provincial social programming: that is, by using government funds to transfer money to those people who qualify for the remuneration. For example, the argument was made by some social interest groups that a universal social program would be advantageous to unemployed women and unemployed students who did not qualify for EIA benefits and were being 'systematically disadvantaged' by the federal legislation. Also, removing maternity and parental leave benefits from the federal EIA legislation would eliminate the instances where women who have taken time away from paid employment to have a child do not qualify for further EIA benefits in the year following their pregnancy if they lose their job or become injured. This would occur because they have already used EIA benefits in the form of maternity leave and, according to EIA legislation, are not entitled to claim benefits twice within the span of the same year.

On 26 September, 2000, before the legislative legitimacy of the provincial plan was even brought to the Québec Appellate Court, the representative of the *Mouvement pour les bébés du millénaire*, Mme. Christine Fréchette argued the following:

> On reconnait aussi l'importance […] de […] dissocier le programme d'assurance
> parentale avec l'assurance emploi, ce qui peut s'avérer comme situation assez
> discriminatoire pour les femmes, puisque, si elles ont bénéficié de prestations
> d'assurance emploi dans l'année qui suit, puisqu'on leur dira: Bien, vous avez déjà
> bénéficié de prestations d'assurance emploi, alors qu'elles étaient tout simplement à la
> maison pour un congé de maternité. Donc, il y a là une discrimination qui ne pourrait
> plus survenir si on dissocie les deux. (National Assembly of Québec, a: 11)

Also, on the same day, representative of *Force Jeunesse et Mouvement pour les bébés du millénaire*, Mme. Myriam Coulombe-Pontbriand claimed that:

> On considère, en fait, que la plus grande clarification qui devrait être apportée à ce
> projet de loi concerne l'absence de mesures relatives aux étudiantes qui ont des
> enfants en cours d'emploi. Présentement, les étudiantes sont les grandes exclues, et il

n'y a même aucune aide gouvernementale de toute forme qui est donnée aux étudiantes qui ont des enfants en cours d'études. (National Assembly of Québec, a: 11)

It was argued by social actors that, rather than being an income replacement program, maternity and parental leave should necessarily be a social program because the administration of maternity and parental leave benefits in the form of insurance was inevitably discriminatory toward non-workers who choose to have children, whether they are unemployed women or students. This shows that social actors expected the Québécois government to respond to various demands that the Québec plan be made available to more women. It also demonstrates the concern that organizations voiced over the equal treatment of men and women with regard to access to unemployment benefits in the event of job loss. Because the federal EIA regards maternity leave as job loss, a woman who takes time away from paid employment to take care of a child would not also qualify for insurance benefits in the same year as her maternity leave if she lost her job upon returning to work.

In response to social actors' demands in the National Assembly during the legislation of Bill 140, PLQ representative Russell Copeman suggested that the representatives of various social organizations were drawing distinctions between government financed programs that are about social assistance and insurance plans that individuals buy into, which are fundamentally about insuring individuals against the risk of unemployment. Copeman responded to the representatives' remarks that were quoted above by asking the following:

> Je voulais peut-être vous entendre sur cette notion d'assistance versus assurance, parce que vous semblez nous dire, avec raison, qu'il y a des catégories de personnes qui, pour une raison ou une autre, ne peuvent pas être couvertes par un programme d'assurance, mais qui ont besoin de l'assistance. Dans ce cas-là, est-ce qu'on finance le régime à l'intérieur d'un régime d'assurance tel que prévu ou est-ce qu'on prend les ressources ailleurs? Est-ce qu'on investit, comme société, par le biais des fonds généraux ou est-ce qu'on se replie uniquement sur les cotisations des employeurs, des travailleurs, ainsi de suite, qui financent traditionnellement une caisse d'assurance? (National Assembly of Québec, a: 21)

Copeman's question suggests that the original intentions of Québec legislators were to implement the province's own insurance plan for maternity and parental leave. However, at the urging of social actors, especially those who were representative of women's concerns, legislators considered implementing maternity and parental leave as a social program, funded by resources from the government alone. This, it was argued by some social actors, would eliminate some of the discriminatory effects of the insurance plan, such as not covering women who are not in paid employment and disallowing women who have already

claimed insurance benefits for a maternity leave to collect unemployment benefits after the loss of a job.

The argument presented in this chapter is that when legislators were forced to appeal to Québec's Appellate Court in order to claim jurisdictional authority over maternity and parental leave, they argued that maternity and parental leave benefits were fundamentally a matter of social programming in order to maximize Québec's legislative authority over the matter and not to seek improved benefits for more Québécois women, as social actors asked them to. Doing so, legislators abandoned some of the fundamental principles of social programming such as gender equality and universality. This, it will be argued, can be demonstrated by comparing Québec legislators' representations of gender equality and universality, which favoured social programming over insurance planning, to the fact that once the province gained legislative authority over maternity and parental leave by means of the Canada-Québec Agreement in March 2005, the QPIP was implemented as an insurance plan rather than a social program.

For some social actors, turning parental and maternity leave benefits into a social program was important because the contribution of government funds toward the social measure would have shown that the provincial government supported families and children in the same way as the PQ's other white paper policies. For example, on 2 June, 2005, a representative of the *Regroupement pour un régime québécois d'assurance parentale*, Mme. Carole Gingras, argued that:

> Maintenant, concernant la contribution gouvernementale, nous croyons qu'elle doit être précisée, au même titre que celle des employeurs et des travailleurs, travailleuses, dans le projet de loi. Cette contribution doit véritablement refléter la volonté du gouvernement de soutenir les hommes et les femmes qui décident d'avoir des enfants au Québec. C'est un message clair qui doit être envoyé à la population du Québec. Cette question concerne l'ensemble de notre société, car il s'agit là d'une mesure sociale faisant partie d'un volet important de la politique familiale. (National Assembly of Québec, l: 6)

Other social actors suggested that the difference between an insurance plan and an assistance program was not always immediately obvious. A representative of the *Alliance des manufacturiers et des exportateurs du Québec*, M. Manuel Dussault explained:

> Ce qu'il faut distinguer, c'est, dans un premier temps, pourquoi est-ce qu'on prend ces mesures-là? Quel est le risque assurable? Et pourquoi est-ce qu'on compense ce risque-là? Dans le cas de l'assurance emploi traditionnelle, c'est clair. Une personne

perd son emploi, c'est un risque assurable, donc on est compensé parce qu'on peut plus travailler.

Dans le cas de l'assurance parentale, c'est possible de retourner au travail. Moi, pour mon premier enfant d'ailleurs j'ai pris des congés de paternité. Ce n'était pas une impossibilité de travailler, c'était un bien-être supplémentaire pour ma famille que de rester à la maison puis de pouvoir, dans une période qui est plus difficile, m'occuper de ma petite fille, puis c'est le cas chez les employés du secteur manufacturier. Donc, il y a un aspect qui est assurance, mais il y a un aspect qui est programme sociale dans ce sens-là. (National Assembly of Québec, d: 11)

In this example it is suggested that because parental leave benefits are administered on the basis of an individual's time that is voluntarily taken away from paid employment rather than on an 'inability' to work, parental leave benefits are more like the benefits provided under an insurance plan than an assistance program. This, it was argued, is because the emphasis is placed on the time that is taken away from work rather than on an incident that precipitates the time that is 'needed' away from work. Also, it assumes that the individual is capable of returning to work at any time that he or she wants to return to work, rather than when he or she is capable of returning to work. In the context of maternity and parental leave benefits, especially in the context of paternity leave, it is an individual's choice to leave paid employment to spend time with a child. It is not, in the logic of social programming, dependent upon *a catalyst independent of an individual's will*. Thus, this raised questions with regard to what kinds of equality of opportunity the government wished to make possible for its citizens and for whom it would be made possible.

On 12 December, 2000, during the final amendments of Bill 140 in the National Assembly, legislators focused on changes in the legislation of the bill that would make it appear as though it focused less on the time that is taken away from paid employment and more on compensation for the act of giving birth itself. This occurred in order to coincide with the argument made to the Québec Appellate Court that maternity and parental leave benefits in the province were essentially a matter of social programming rather than a matter of income replacement. By this stage in the bill's first legislation by the PQ, the Attorney General of Québec had already begun to mount an argument to the Québec Appellate Court, contending that maternity and parental leave benefits should necessarily be represented in the form of social programming rather than income replacement. In order to corroborate the judicial argument at the legislative level, the following took place between PQ representative Nicole Léger and PLQ representative, Russell Copeman:

Mme Léger: Alors, on y va. L'article 2 remplacé. Alors:

«2. Le régime a pour objet d'accorder, à tout travailleur admissible, des prestations pour un congé de maternité et pour les congés familiaux suivants: un congé de paternité et un congé parental, pris consécutivement à la naissance d'un enfant, et un congé d'adoption d'un enfant mineur.»

Il est remplacé actuellement par le suivant:

«2. Le régime a pour objet d'accorder les prestations suivantes:

«1° des prestations de maternité;

«2° des prestations de paternité et des prestations parentales à l'occasion de la naissance d'un enfant;

«3° des prestations d'adoption d'un enfant mineur.»

Bon. L'objet de cet amendement est de retirer du projet toute référence au travail ou à un congé. C'est en effet l'événement lui-même, qui est la maternité, la naissance ou l'adoption, qui ouvre droit aux prestations […].

[…]

M. Copeman: Oui. Alors, on a essentiellement éliminé la notion de «congé».

Mme Léger: C'est ça. Parce que ça faisait référence vraiment à... L'important est que ça fasse référence au travail lui-même, à l'événement lui-même, qui est la maternité, la naissance ou l'adoption.

Et là, la manière dont il a été fait, c'est qu'il donnait référence vraiment à un congé, et le but est plutôt l'événement. C'est ça, la modification. (National Assembly of Québec, c: 8)

In order to claim provincial legislative authority over maternity and parental leave benefits in the National Assembly of Québec it was important to distance the provision of benefits from the provision of the federal EIA benefits as much as possible. In order to do so it was claimed by Québec legislators that maternity and parental leave benefits were not accorded to individuals for time taken away from paid employment but rather to compensate an individual for the act of giving birth itself or the act of adoption.

This, however, raised more issues with regard to discrimination because it assumed that individuals who do not experience the act of giving birth do not qualify for the benefits. The logic by which Québec representatives claimed provincial autonomy over the legislation of maternity and parental leave benefits was one that restricted the definition of maternity and parental leave benefits to the compensation of parents for the act of birth itself rather than the time that is taken away from paid employment subsequent to the birth or adoption of a child.

While, in some instances, it was claimed that this was meant to eliminate any discrimination that may have occurred between women who are attached to the labour force and those who are not, it did, inevitably, create formal inequalities between men and women.

This occurred for two reasons. One is because men cannot become pregnant and, therefore, would be assumed not to need time away from work to take care of children. The second is because the logic of the social program assumes that men and women's attachment to the labour force is unequal since women can decide to become pregnant at any time. This is opposed to the logic of EIA benefits which assumes that men and women have equal status in the workplace and that pregnancy is of the same random character as any other job loss due to job termination, sudden illness or injury. In the logic of the insurance plan both men and women are equally capable of taking time off work to spend with newborn or newly adopted children even though, historically, the practice of child care has more often been performed by women. Also, according to the formal logic of the Canadian EIA, women and men are both equally 'at risk' of absenting themselves from paid employment in order to take up child care responsibilities even though, substantively, women are more likely to do so.

The arguments in favour of either an insurance plan or a social assistance program were both fundamentally about equality. However, what the judicial manoeuvring disclosed about the nature of sub-state nationalism in Québec is that the nation-building character of family policy legislation and Québec's quest for provincial sovereignty over the matter of maternity and parental leave benefits necessitated a judicial discrimination between men and women workers that did not exist before. The logic of this judicial manoeuvring, moreover, ended up opposing the original demands that were negotiated by certain social actors during the legislation of Bill 140.

As the representative of the *Commission des droits de la personne et des droits de la jeunesse* explained, legislators should be preoccupied with ensuring that women who participate in the workforce are not discriminated against because of pregnancy. According to Mme. Céline Giroux, sexual equality between men and women with regard to labour market participation as well as parenting is best upheld by an insurance plan that facilitates both men and women's participation in family life and both men and women's return to the workforce after taking time off to care for a child. On 2 November, 2000, before arguments

were made in favour of turning the proposed insurance plan into a social program, the representative claimed that:

> La conception égalitaire entre les sexes qui sous-tend le projet de loi encourage aussi la participation des deux parents en favorisant avec le congé de paternité une extension de la présence active des pères auprès de leur enfant dans une relation non pas unique de pourvoyeur mais davantage affective et personnalisée.
>
> […]
>
> Les congés de maternité, paternité, parental et d'adoption visant à faciliter la conciliation travail-famille proposée dans le projet de loi sont des éléments d'une approche intégrée voulant donner à tout homme et à toute femme la possibilité de s'impliquer à tous les niveaux de la vie en société. De telles propositions […] visent à éliminer ainsi une forme de discrimination touchant plus spécifiquement les femmes, la discrimination, bien sur, fondée sur la grossesse.
>
> Au Québec, la grossesse constitue l'un des motifs de discrimination prohibés par la Charte des droits et libertés de la personne. Selon l'article 10 de la Charte, « toute personne a droit à la reconnaissance et à l'exercice, en pleine égalité, des droits et libertés de la personne, sans distinction, exclusion ou préférence fondée […] –bien sur– sur la grossesse », entre autres. Toute exclusion en lien avec la grossesse et compromettant le droit à l'égalité dans l'emploi pour les femmes est prohibée. (National Assembly of Québec, d: 14-5)

Another issue that was raised concerning the difference between an insurance plan and a social assistance program was the social, political and cultural meanings of social assistance and insurance and how they were articulated to the public. An insurance program, according to some social actors and PQ representatives, equated women with unemployed people and did not support Québec's sovereignty over social programming. It was argued that social programming is much more concerned with social equality than is an insurance program. For example, on 26 September, 2000, Mme. Claudette Carbonneau, representative of the *Confédération des syndicats nationaux* (CSN), explained to the National Assembly that there was a difference in conceptualizations of equality between insurance programs and government assistance programs:

> Bien, vous avez raison. La différence est quand même importante entre une caisse d'assurance et un régime d'assistance, et je pense qu'il faut avoir, oui, un comportement équitable et un comportement responsable par rapport à ça, dans le sens ou ça ne repose pas du tout sur les mêmes sources de financement, la même assiette fiscale, ça n'a pas les mêmes vertus de redistribution.
>
> Il faut comprendre le sens de notre recommandation de deux façons. D'une part, bien comprendre qu'on s'inspire d'une mesure déjà existante dans une caisse d'assurance. On n'y est pas allé d'autres mesures d'assistance pour dire: Incluons-les dans la caisse d'assurances québécoise, mais on part déjà d'une mesure qui existe

dans une caisse d'assurance au fédéral. D'autre part, je vous dirais que, pour nous, l'essentiel, c'est l'engagement gouvernemental. C'est moins d'en faire une disposition où les sommes seraient financées par la caisse québécoise. (National Assembly of Québec, a: 50)

In this example it became evident that one of the most important factors in the legislation of maternity and parental leave benefits by the Québec provincial government for this particular trade union organization was the contribution of the government's public funds to the program. For some it was important that maternity and parental leave benefits be treated as a social program so that workers could benefit from the government's contribution and not be solely dependent upon individual employee and employers' contributions. The idea that the Québec provincial government should be contributing to a fund to support parents in the manner of a social program was also supported by PQ members and reproduced in a sub-state 'national' context whereby a 'Québec' program would be better for Quebecers than an adaptation of the federal EIA benefits.

For example, on 21 November, 2000, PQ representative, Nicole Léger claimed that women should not be equated with unemployed people and that the parental leave program in Québec should not be an adaptation of the benefits made available to Canadians under the *Employment Insurance Act*:

> Alors, c'est un geste concret aussi de soutien à la famille. Il était temps d'agir, M. le Président, il était temps de mettre fin définitivement à une aberration contre laquelle d'aucuns protestent et qui perdurent depuis un quart de siècle. Il était temps de cesser d'assimiler l'arrivée d'un enfant à la perte d'un emploi. Il est impensable qu'encore de nos jours les femmes et les hommes qui doivent s'absenter du travail pour la naissance d'un enfant ou pour en prendre soin pendant les premiers mois soient traités ici comme ceux qui se retrouvent en chômage.
>
> Il ne faut surtout pas se méprendre sur la motivation du Québec. Peu importe les ouï-dire et les qu'en-dira-t-on, le Québec ne cherche pas ici à se quereller avec le fédéral, il cherche plutôt à offrir une bonne façon de doter les parents québécois d'un véritable congé parental en remplacement d'une mauvaise adaptation de l'assurance emploi. (National Assembly of Québec, q: 4)

This can be compared to the nationalist discourse that was also reproduced by PQ members after the Supreme Court of Canada handed down its final decision regarding legislative sovereignty over the matter, denying constitutional recognition of Québec's jurisdiction over maternity and parental leave benefits. On 20 October 2005, after the Supreme Court of Canada's decision regarding the jurisdictional competency of maternity and parental leave

benefits was made public, PQ opposition critic for Canadian Intergovernmental Affairs, Jonathan Valois, claimed the following:

> Alors, sur la base de cette interprétation évolutive, le jugement dit que finalement les sphères sociales seront aussi de compétence et pourront être de compétence fédérale. On ne le dit pas directement comme ça, sauf que qu'est-ce qu'on fait? Bien, on s'assure d'appeler des femmes enceintes des chômeuses, on s'assure de faire en sorte que les personnes qui vivent des réalités sociales soient beaucoup plus vues dans le prisme d'une étendue, d'un apport économique et donc d'une intervention possible du fédéral.
>
> […]
>
> Alors, vous comprendrez que le Canada que nous voyons est en train de se construire, le Canada se centralise, et cette belle évolution que les fédéraux et fédéralistes doivent êtres si fiers, bien, c'est encore une fois de plus le reniement d'une nation qui existe ici, et qui essaie de se donner ses propres programmes sociaux, et qui essaie d'offrir aux familles, aux femmes du Québec les meilleurs supports en termes d'intervention sociale. (National Assembly of Québec, p: 1)

In this example the PQ representative attacked both federal representatives and federalist provincial representatives for letting the Canadian federal system deny the 'nation' of Québec competency over its own social programming –a domain to which parental leave was argued to belong. Further to that, M. Valois suggested that Bill 108, legislated by the PLQ and modeled after the federal EIA, once again, equated women with unemployed people and was detrimental to achieving equality among Quebecers.

Thus, during the legislative and judicial debates over the constitutional viability of the QPIP it was argued by Québec government representatives that parental leave was fundamentally about government assistance in the form of a social program and was, according to this logic, the legislative jurisdiction of the province. This argument was derived from social actors' insistence that the legislation of maternity and parental leave in Québec would best suit the needs of Quebecers if it were legislated as a social program rather than as an insurance plan. A social program, it was argued, would be better suited to the legislation of gender equality and universality, both of which, it was claimed, were lacking from the federal EIA.

However, the judicial debates served to prioritize Québec's legislative autonomy over parental leave rather than maximizing social actors' demands that parental leave be made more universal for unemployed women and for fathers. This prioritization of Québec's legislative autonomy over gender equality, moreover, led Québécois political actors to claim the necessity of sovereignty over maternity and parental leave benefits in a sub-state national

context. The logic of this sub-state nationalism, as it unfolded during the judicial debates over Bill 140, confirmed the extent to which legislative sovereingty over the family policy played an important role in nation-building endeavors in the province. The concept of the Québécois family, moreover, played an equally important role in the public representation of the importance of 'national' legislative sovereignty and its relationship to the continuity of the Québécois population.

Sub-state Nationalism and Familial Sovereignty: The Role of the Family in Québec's Legislative Sovereignty and Nation-Building Discourse

According to Canada's *Constitution Act, 1867*, as we saw in chapter 3, social programming has been the sovereign jurisdiction of the Canadian provinces since confederation. In order to prove that the QPIP was in fact the sovereign jurisdiction of the province of Québec, it was necessary to show that maternity and parental leave benefits constituted a social program rather than an income replacement program. In order to claim that maternity and parental leave was a social program, moreover, judicial logic necessitated that maternity benefits be accorded to a recipient based on the act of giving birth rather than the act of taking time away from paid employment. This, it has been argued, systematically discriminated between men and women workers and men and women parents.

This discrimination was justified by social and political actors, it was suggested, because Québec's political autonomy with regard to matters concerning maternity and parental leave benefits took precedence over gender equality measures and the universal application of the QPIP to all Quebecers, especially women who did not qualify for benefits under the federal *Employment Insurance Act*. In order to maximize political support for this judicial argument, the QPIP was represented publicly in a discourse of national sovereignty and, also, in a discourse of familial sovereignty. According to nationalists, the reproduction of the Québécois nation is dependent upon the reproduction the Québécois family. Thus, family policy should necessarily be subject to provincial legislation. In order to present the social merit of maternity and parental leave benefits to the public, both social and political representatives claimed that maternity and parental leave was, essentially, part of a set of family policy initiatives. Family policy, moreover, was depicted to be at the heart of Québécois political sovereignty because Québécois families were 'imagined' to be the means by which the nation is reproduced.

On 26 September, 2000, a member of the *Institut de recherches en politiques publiques*, Mme. Sarah Fortin, claimed that there was a discrepancy between maternity leave and social programming in the province: despite having jurisdiction over family policy, the province did not have autonomous legislative power with regard to the legislation of maternity and parental leave benefits. Fortin stated that:

> La première chose, c'est bien sûr que le gouvernement fédéral jouit d'une totale latitude en matière de congé de maternité et de congé parental par le biais du régime d'assurance emploi. On aura beau dire qu'en matière de politique familiale c'est vrai que Québec a toute légitimité, toute compétence, il reste que, à travers le régime d'assurance emploi, Ottawa, depuis 1940, a pleine compétence et, depuis 1971, il est le seul à s'être occupé des prestations en cette matière. (National Assembly of Québec, a: 57)

Subsequent to that statement, on 2 November, 2000, a representative of the *Conseil du Patronat du Québec*, M. Gilles Taillon, told the National Assembly that:

> Alors, vous aurez compris, à la lecture de notre mémoire, que le Conseil du patronat est favorable à l'instauration d'un régime d'assurance parentale par le Québec. Nous estimons qu'il s'agit là davantage d'une responsabilité provinciale que fédérale, parce que c'est une des composantes de la politique familiale. (National Assembly of Québec, d: 32)

In response to M. Taillon's comments concerning the QPIP, PQ representative Mme. Nicole Léger told M. Gilles Taillon that she thought private enterprises posed a threat to the sanctity of Québec families and that sovereignty over family policy in the province was necessary to encourage people to have more children in Québec:

> Je vais aller dans une question un peu plus sociétale, plus responsabilité collective, parce que j'en profite parce que vous là aujourd'hui, d'une part. On voit parfois, dans l'entreprise privée, que les employeurs présentent souvent certaines réticences à encourager les futurs parents à se prévaloir pleinement de leurs droits au niveau de la famille.
>
> […]
>
> Je fais le lien avec les taux de natalité au Québec. Vous savez qu'avec ce taux de natalité là on voit que ce qui peut aider, en tout cas, à améliorer et aider les parents à avoir des enfants, les familles à avoir des enfants, c'est d'une part par les politiques sociales, et, bon, la politique familiale du Québec, par tous ses aspects, peut contribuer en tout cas d'une certaine façon à aider les familles à avoir des enfants. (National Assembly of Québec, d: 41)

This shows that family policy was the means by which legislators imagined that Quebecers would want to have more children. This pro-natalist ideology, it is argued, was made even

more visible in the context of the legislation of Bill 140 because sub-state representatives had to claim provincial jurisdiction over the matter of maternity and parental leave benefits *from* the Canadian federal state. Jurisdictional battles made the concepts of family, reproduction and fertility more visible.

On 7 Novemeber, 2000, representative of the *Regroupement inter-organismes pour une politique familiale au Québec*, M. Yves Lajoie, claimed that:

> On ne peut pas morceler l'ensemble des mesures, des dispositions, des lois, des politiques dans le domaine de la politique familiale, on ne peut morceler les lieux de décision, car il y a un certain risque de trahison et de non-cohérence. Pour nous, le Québec doit être le maître absolu de la politique familiale, car elle touche au plus profond, à l'identité de la vie des familles et de la société. (National Assembly of Québec, f: 4-5)

By creating a discourse concerning provincial sovereignty over family policy, social and political actors treated the nation as though it were an extension of the family. In doing so they confused the biological role of families in the reproduction of individuals with the social role of the nation in the reproduction of its members. This argument can be corroborated by the fact that the logic of social programming emphasized the act of giving birth rather than the time that is taken away from paid employment to take care of a newborn or newly adopted child. That is, in order to claim provincial sovereignty over the matter of maternity and parental leave benefits, it was necessary to claim that the benefits were administered as a consequence of the act of birthing. This judicial logic of reproduction was repeated in legislative contexts as both social and political representatives' claimed that provincial sovereignty over the legislation of all forms of family policy was essential to the continuity of Québécois national identity.

In most societies it is assumed that the family (or a social institution that mimics the functions of a family) is the means by which new members are reproduced and socialized. In Thomas Hobbes's view, the family was a miniature state wherein individuals contract with each other in order to fulfill certain social roles until all immature individuals are capable of making their own contracts with the state. However, in the seventeenth century it was the conviction of patriarchalists, such as Robert Filmer, that 'political power was paternal power and that the procreative power of the father was the origin of political right' (Pateman, 1988: 3). In pro-natalist societies, as in Filmer's conception of the state (which is based on the biological succession of the patriarch), the family is not only imagined to act as a microcosm of the state but the state also assumes the reproductive functions of the family.

That is, through family policy, the state can encourage the reproduction of the nation. The nation, in turn, appears 'natural' and distinct from all other national communities. As Chapman argues:

> Hobbes saw the family as a diminutive state, as *Leviathan* writ small. He uses the family constantly as an analogy for the state, as justification, as historical example, as a heuristic device to explain political structures and functions, and as exhortation; further, the strength of the analogy makes it easy for Hobbes to put the family in commonwealth into the business of primary education. Note the order of things, for it is not that the state is an extension of the family; it was Filmer, not Hobbes, who saw the state as the family writ large. Hobbes almost never finds the family in the state; the family is the model only in questions of intestate succession. (1975: 78)

In Québec the family is not only a means of ensuring the intestate succession of individuals' social contracts with the state. It is also a means of ensuring the reproduction of a disctinctively Québécois nation for future generations of Quebecers. Like the concepts of population and pro-natalism, the relationship between the family and the nation was made more visible when Québec's sovereignty over family policy legislation was challenged. This was because both implicit and explicit pro-natalism made the Québécois family analogous to the nation. According to the logic of pro-natalism, the biological reproduction of the population through the family –which is assumed to be the purpose of pro-natalist policy– 'ensures' the social reproduction of the national community.

The relationship between pro-natalism and the nation was also made visible by such comments as the following, made by the representative of the *Regroupement des centres de la petite enfance de la Montérégie*, Mme. Claudette Pitre-Robin. On 5 October, 2000, she claimed that:

> Tout parent, peu importent son statut, son état ou sa condition, doit pouvoir exercer ses pleins droits quant à son rôle de parent, de citoyen et de travailleur. Le présent projet de loi de l'assurance parentale doit assurer à l'ensemble de la population actuelle et à toutes les générations futures une liberté de choix, certes, mais surtout la possibilité de l'exercer. […] Le gouvernement québécois a la possibilité mais aussi le devoir d'en assurer la mise en opération, l'accessibilité et la concertation. (National Assembly of Québec, e: 3)

Through a public discourse of the family, nationalist leaders ostensibly developed family policy with a view to encouraging the reproduction of not only current but also future generations of Quebecers. The family was the means by which current members were related to future members. Sovereignty over the legislation of policy that affects the family, moreover, was depicted as the means by which social and political actors could ensure the

survival of the Québécois nation. Social and political actors reproduced the concept of survival by making analogies between the position of individual families and their biological descendents, as well as the nation's population and its future as a political community. In Québec the threat to individual families and their descendents was characterized as harsh labour market conditions and economic constraints that tend to prohibit the reproduction of large families. The threat to the nation's population and its future, moreover, was characterized as Canadian federalism and Québec's relative population decline.

Public discourse on the nation and the family was represented in comments made on the public record that encouraged the collectivizing responsibility of the Québécois nation (and provincial state) toward parents and children. For example, on 5 October, 2000, representative of the *Centrale des syndicats du Québec*, Mme. Monique Richard, explained that:

> Le Québec vit, depuis les années soixante-dix, sur le régime des congés parentaux indemnisés par la caisse de l'assurance emploi. Aujourd'hui, force est de constater que, depuis l'introduction de nouvelles règles de calcul d'admissibilité en janvier 1997, le nombre de femmes exclues du congé de maternité ne cesse de progresser.
>
> […]
>
> C'est pourquoi la Centrale des syndicats du Québec accueille favorablement le projet de loi sur l'assurance parentale. Ce projet de loi constitue dans ses grandes lignes une réponse aux multiples demandes afin que le Québec se dote enfin d'un régime universel de congés parentaux. Il constitue pour nous une reconnaissance de la responsabilité collective en responsabilités parentales […]. (National Assembly of Québec, e: 28)

Furthermore, on 2 November, 2000, representative of the *Commission des droits de la personne et des droits de la jeunesse*, Mme. Céline Giroux, argued that the family was necessarily a social institution that the state was obligated to support:

> Par ce projet de loi, le gouvernement entend mettre en œuvre un ensemble de dispositions reposant sur un principe qui reconnaît aux parents un rôle prépondérant dans le développement de leurs enfants, et, à l'État, un rôle de soutien. Ce principe s'actualise dans un objectif majeur de la politique familiale à la base du projet de loi de l'assurance parentale, celui de faciliter la conciliation des responsabilités parentales et professionnelles. Ce domaine de la politique familiale, qui vise la famille comme institution sociale, doit tenir en compte des rôles, obligations et besoins différents de chacun au sein de l'entité familiale: parents, mères, pères, enfants. (National Assembly of Québec, d: 13)

Thus, in the context of this particular policy, Québec legislators as well as social actors who were in favour of implementing policy that would help women, parents and families, used the family to draw analogies between individuals' reproductive and familial desires and the national 'state's' responsibility to help ensure the reproduction of its members.

The use of familial analogies to maximize support for Bill 140, furthermore, was one of the means by which Québec legislators claimed political autonomy over the matter of maternity and parental leave benefits. Maternity and parental leave, they argued, were forms of family policy (which, according to them, should fall under the umbrella of social programming) and should, therefore, be of provincial jurisdiction. The judicial dispute over provincial jurisdiction, it was argued, led to the unequal conceptualization of both men and women's attachment to paid employment as well as their roles in the care for newly born or newly adopted children. This suggests that much more academic attention should be paid to the relationship between sub-state nationalism, social policy and the concepts of population and pro-natalism. Analyzing this relationship is vital to a critical understanding of sub-state national political sovereignty and conceptualizations of national identity and nation-building projects such as the administration of family policy. Better analysis of this relationship, furthermore, would also highlight the limitations and weaknesses of sociological theory when it comes to understanding the relationship between the nation, the family and both the social and biological reproductions thereof.

Conclusion

Jurisdictional battles between federal and provincial forces in the context of Bill 140 have shown us several things so far. First of all the quest for political autonomy over maternity and parental leave benefits led some legislators to the logical conclusions that it was necessary to discriminate between both men and women's attachment to the labour force and men and women's roles as familial caregivers. This discrimination went against social actors' demands that the QPIP reduce or eliminate discrimination between men and women's attachment to the labour force based on the ability or the inability of an individual to become pregnant. However, this discrimination, which took place at the legislative and judicial level, it was argued, occurred for the purposes of securing provincial autonomy over the matter of maternity and parental leave benefits.

It was observed that once Québec legislators secured provincial legislative sovereignty over the matter of maternity and parental leave benefits by means of an administrative agreement between federal and provincial governments, the maternity and parental leave plan was legislated in the same way as the federally legislated EIA benefits, leaving out any sexual discrimination with regard to participation in paid labour. The QPIP was legislated as an insurance plan and not as a social program. The claim that maternity and parental leave benefits in the province of Québec should be legislated in the form of a social program was rhetorical rather than substantial. It was claimed that this occurred for the purposes of securing provincial sovereignty over parental leave legislation. The mandatory insurance scheme assumed that all individuals who buy into the plan do so because they are at the same risk of losing employment opportunities as any other individual regardless of their ability or inability to give birth. This was opposed to the logic of a social program where assistance is based on an individual's ability to experience the act of giving birth. The logic of the latter assumed that only women can lose their places in paid employment and that men should never have to leave the workplace to participate in the care of a newly born infant because it is impossible for them to participate in the event of birth itself.

These arguments led social and political actors to emphasize the importance of births and families in Québec. This was because both historically and contemporaneously the concept of the family as a means of reproducing large Québécois families has remained at the heart of family policy legislation and is used, rhetorically, to draw attention to the importance of population numbers and the relative power of the Québécois nation. What this analysis suggests is that nationalism played a key role in the legislation of the Québec Parental Insurance Plan. This nationalism, furthermore, made concepts such as population, pro-natalism, and the reproduction of the family more visible. During public discussions of jurisdictional authority, Québec legislators' claims that the QPIP was a matter of family policy were used in order to reproduce the concept of the 'national family' on the public record. The rhetoric of 'the family' was used to draw attention away from the substantive issues of gender equality and universality and to amass support for the concept of national survival and nation-building policy initiatives. An analysis of the analogies drawn between the biological reproduction of the family and the social reproduction of the Québécois nation suggests that there are strong empirical links between the concepts of population, pro-natalism, nationalism and social policy legislation.

Chapter 7: Is Demography Destiny? Banal Natalism and the Concepts of Fertility and Family in the Reproduction of the Nation

In the preceding chapter it was suggested that the relationship between population, policy legislation, nationalism and nation-building became more prominent during the legislation of the Québec Parental Insurance Plan (QPIP) than it was during the legislation of the other PQ white paper policies. This was suggested by analyzing the judicial and legislative debates that took place over the jurisdictional sovereignty of Québec's legislation of maternity and parental leave benefits. Throughout this analysis it became apparent that jurisdictional battles between federal and provincial levels of government led provincial legislators to forgo parts of the feminist agenda that had initially informed the legislation of the PQ's white paper policies. Parenting and participation in paid employment, concepts that were fundamental to the original PQ white paper policies, were temporarily relinquished in order to satisfy the sub-state national objectives of attaining legislative sovereignty over the matter of maternity and parental leave benefits. By relinquishing the original objectives of the maternity and parental leave benefits plan for the purpose of attaining legislative sovereignty over maternity and parental leave benefits, it was argued, Québec legislators tended to make matters pertaining to population numbers and fertility more visible on the public record.

In this chapter we continue to focus on the legislative debates that took place both among Québec legislators and between Québec and Canadian federal government representatives. We do so with a view to understanding the extent to which jurisdictional battles over legislative sovereignty may or may not have made issues of fertility and 'pro-natalism' more predominant in the public discussions of Bill 140's legislation and implementation. Thus, in this chapter we continue to analyze the effects of the judicial discrimination between a social program and an insurance plan on Québec legislators' public representations of the QPIP. However, in this chapter we look specifically at legislators' treatment of both birth and adoptive parents in the context of Bill 140. We seek to understand how the jurisdictional battles between federal and provincial government representatives may or may not have made questions of the biological reproduction of the Québécois population and the concepts of 'the family,' fertility, and 'pro-natalism' more visible during the legislation of the Québec Parental Insurance Plan. In this chapter, like the chapter above, we consider how some of the arguments that legislators made on the public record, in the specific context of the judicial decisions, changed once sovereignty over the legislation was secured. We also analyze the extent to which public representations of the family in the context of Bill 140

made the banal national reproduction of Québécois identity within the province analogous to banal 'natalist' reproductions of Québécois identity.

As was stated in chapter 1, this thesis is a case study that has the purpose of observing whether or not there is a relationship between the concepts of nationalism, population and demography in Québec. In this chapter it is argued that this relationship can be examined empirically by analyzing Québec legislators' treatment of the provision of maternity and parental leave benefits to both birth and adoptive parents. As we saw in chapters 5 and 6, Québec's legislative autonomy over the Québec Parental Insurance Plan was challenged by the Canadian federal government at the judicial level. The judicial logic of this constitutional challenge led Québec legislators to emphasize certain aspects of maternity and parental leave benefits in order to make the argument that the proposed QPIP did, in fact, fall under provincial jurisdiction.

Part of this emphasis, as we saw in the preceding chapter, included a justification for administering the QPIP as a social program rather than an insurance plan. This justification included a description of maternity and parental leave as the time that is taken away from paid employment as a result of the act of giving birth rather than as the time that is taken away from paid employment to care for a newly born or newly adopted child. In this chapter we analyze the legislative as well as the judicial debates in the context of the provision of parental leave benefits to both birth and adoptive parents. We do so in order to examine whether or not disputes arising over the legislation of benefits for both birth and adoptive parents made the concepts of population and demography more visible in legislators' public record accounts of the Québec Parental Insurance Plan.

Québec Family Policy, the Provincial 'State,' and Jurisdictional Battles over Maternity and Parental Leave Benefits

As we saw in chapter 4, family policy developed in part in Québec during the 1990s as a response to the Canadian state's neo-liberal retreat from most family policy initiatives such as universal day care and anti-poverty legislation. Some have observed that the family policies that were initiated by PQ representatives during the 1990s differed from initiatives elsewhere in Canada and that they were articulated in a specifically sub-state national context in order to differentiate between the Canadian and the Québécois 'welfare states' (Béland and Lecours, 2005; Telford, 2003; Saint-Martin, 2004). Because the nature of devolved legislative powers in Canada has granted the provinces, including Québec, state-

like powers over the legislation and administration of social policy it is possible for Québecois legislators to discriminate between a 'Canadian' and a 'Québécois' welfare state. Thus, as Béland and Lecours have suggested, the social policy dimension of sub-state nationalism in Québec works in conjunction with the concepts of national identity formation and territorial mobilization (2005: 676).

The division of powers in Canada, which grants provinces sovereignty over certain matters such as social programming, is sufficient to give provinces their own distinctive approach to social welfare programs. As we saw in chapter 4, Québec, more than any other province, has had extensive family programs and since the 1960s, has had a variety of state-sponsored family programs that have included, among other things, incentives for women and families to birth more children (Baker, 1994). In the specific context of the legislation of the QPIP, the social policy dimension of sub-state nationalism was often expressed in terms of the provincial 'state's' support for the family. During the legislation of the QPIP, Québec was often referred to as a 'state,' with legislative competency over matters pertaining to the family. On 26 September, 2000, PQ representative Pauline Marois commented that:

> Dans le contexte actuel, nul n'oserait nier la pertinence de ce projet de loi et refuser d'améliorer le sort des parents québécois. Par ailleurs, l'État doit apporter un meilleur soutien aux parents et poser des gestes concrets en ce sens. Je crois sincèrement que nous atteignons cet objectif en leur offrant des conditions de congé parental qui soient parmi les meilleures. (National Assembly of Québec, a: 4)

Further to that it was suggested by PQ representative, Nicole Léger, that the role of the Québécois 'state' in legislating family policy also served the function of providing its citizens with equality of opportunity. As Léger claimed:

> Depuis l'automne 1997, le gouvernement du Québec déploie des efforts sans précédent pour mettre en œuvre les trois dispositions majeures de sa politique familiale. Ces dispositions reposent sur un principe de base, soit la reconnaissance du rôle prépondérant des parents dans le développement de leurs enfants et du rôle de soutien assumé par l'État. C'est en vertu de ce principe fondamental que la politique familiale vise entre autres à faciliter la conciliation des responsabilités parentales et des exigences du travail ainsi qu'à favoriser le développement des enfants et, par le fait même, l'égalité des chances pour chacun. (National Assembly of Québec, a: 5)

Thus, an improved parental leave policy was introduced to the National Assembly of Québec by legislators with the claimed purpose of increasing equality of opportunity for children and work-life balance for parents. By introducing this legislation to the National Assembly, Québec representatives made strong links between the concepts of the family and the

'Québécois state,' asserting that the family is an institution that should be supported by the state. This sort of connection between the family and the role of the state is fairly widespread among the representatives of modern welfare states. That is, most politicians will endorse the concept of the family and purport to advance the best interests of the family unit. However, what the representatives of various polities *mean* when they discuss the concept of the family and its role in society is so variable that almost any kind of family policy can be tailored to fit the claim that the representatives are meeting their constituents' best legislative interests.

For example, Québec legislators' support for the family through equality of opportunity and work-life balance initiatives –examples of which were used above– was challenged when jurisdictional battles arose between provincial representatives in Québec and federal representatives in the rest of Canada. These jurisdictional battles changed the extent to which Québec legislators saw themselves as acting with the sovereignty of a 'state' over matters relating to family policy. As a result, the jurisdictional battles also changed the ways in which legislators discussed the role of the family in Québécois society and the role of legislation in providing families with support programs.

As we saw in the previous chapter, the logical extension of Québec legislators' claim to legislative sovereignty over the matter of maternity and parental leave benefits led legislators to claim that the QPIP would form a social policy that was fundamentally based on the act of giving birth rather than the time that is taken away from paid employment to take care of new-born children. This was made evident on 17 October, 2000, when Pauline Marois claimed the following:

> Parce que, justement, ce qu'on a reproché à l'assurance emploi et ce qu'on continuera de reprocher, même, avec le congé actuel, c'est que la logique du congé, c'est la logique de l'assurance emploi et non pas la logique d'un congé parental. Et donc, c'est évident, que, à un moment donné, il y ait des conflits, et ce qui prend le dessus, c'est la logique de l'assurance emploi. Alors, c'est pour ça que, nous, on veut le dégager et en faire en soi un congé *qui ne concerne que cette réalité de la naissance d'un enfant* pour un couple qui choisit de prendre quelque temps pour en prendre soin […]. (National Assembly of Québec, j: 8 [Emphasis mine])

In the previous chapter it was explained that jurisdictional battles between federal and provincial levels of government led Québécois legislators to discriminate between men and women's attachment to the labour market by emphasizing the role of birthing in the allocation of maternity and parental leave benfits. They did so at the expense of

emphasizing the strong feminist agenda that initially informed the legislation of the QPIP as well as the other white paper policies. This was because the Québec Appellate Court's decision in favour of awarding Québec legislative sovereignty over the matter of maternity and parental leave benefits assumed that maternity and parental leave benefits were necessarily a social program. The logic of this argument necessitated that the Appellate Court's decision include the following statement: 'These special benefits are not paid further to the loss of a job for economic reasons; rather, they are paid further to the interruption of an individual's employment because of a personal inability to work' (Québec Cour d'Appel). This personal inability to work, as we saw in the chapter above, was conceptualized as the act of maternity itself, which, according to the Appellate Court Justices, assumed that an individual made the choice to become pregnant as opposed to all other claims to employment insurance, which are based on the concept of social 'risk.'

The Supreme Court of Canada's response to this decision favoured awarding the federal government sovereignty over maternity and parental leave benefits based on the conviction that the benefits did not fall under the banner of social programming but, rather, were necessarily an income replacement scheme. According to the Supreme Court Justices' decision, 'An interruption of employment due to maternity can no longer be regarded as a matter of individual responsibility. Women's connection to the labour market is well established, and their inclusion in the expression "unemployed persons" is as natural an extension as the extension involving other classes of insured persons who lose their employment income' (Supreme Court of Canada). As a result of these judicial debates, Québec legislators emphasized the act of maternity, or the act of giving birth in order to prove to the federal government that maternity and parental leave benefits were, as the Québec Appellate Court argued, a matter of social programming rather than an insurance scheme to protect workers against potential unemployment. This shift in public emphasis meant that issues relating to fertility, reproduction and demography became much more visible during the legislation of the bill.

The following is an analysis of the ways in which jurisdictional battles between federal and provincial representatives led Québécois legislators to emphasize the role of birthing at the expense of emphasizing equality of opportunity for all children and work-life balance for parents. This analysis is carried out by examining legislators' treatment of birth and adoptive parents on the public record. This analysis, like the one in the preceding chapter, also considers whether or not the shift in legislators' emphases on the various purposes of

Bill 140, from equality of opportunity and work-life balance to the public defense of Québécois sovereignty, led legislators to make the concepts of fertility, population decline and demography more visible on the public record.

Preliminary analyses of the legislative debates tend to show that Québec legislators' conceptualization of family policy and, more specifically, parental leave based on the recipient of the benefit's ability to give birth, discriminated between birth and adoptive parents. This discrimination was made problematic for PQ legislators when National Assembly as well as interest group representatives claimed that parental leave benefits were necessarily about the time that an individual takes away from paid employment whether that individual is taking time away from paid employment to spend with a newborn infant or a newly adopted child. For example, it was brought to the attention of the members of the National Assembly that adults can adopt other adults, making the generative aspect of the family irrelevant to the conceptualization of a parental leave policy. On 14 December, 2000, PLQ representative, M. Henri-François Gautrin, stated that:

> Je comprends parfaitement la portée de l'article, lorsqu'on adopte ce que j'appellerais un enfant d'âge jeune, voire un poupon, etc., sauf que, Mme la ministre, vous savez que le Code civil permet d'adopter un adulte. Est-ce que le congé parental, qui n'est pas fait dans ce but-là, à mon sens … (National Assembly of Québec, k: 21)

Further to this concern over the definition of an adopted person were the issues raised surrounding the extension of parental leave benefits to the parents of sick children. M. Rodrique Bauge, a representative of LEUCAN, a non-profit organization that oversees financial aid for parents with children who are being treated for and are recovering from cancer, claimed that a 'parental' insurance plan should provide benefits to all parents, especially those who have to take time away from work to care for sick children. M. Bauge suggested that 'parenting,' or, caring for a dependent child is not something that is particular to the period in which a child is 'birthed.' PLQ representative, M. Pierre-Étienne Laporte, responded to this suggestion by stating:

> Évidemment, vous soulevez une interrogation fondamentale sur le régime qui est posé, parce que, lorsqu'on vous écoute et qu'on examine la loi, on s'aperçoit bien que cette loi était mal nommée dans un sens. On dit que c'est une assurance parentale, mais c'est une assurance parentale pour des cas très précis. C'est presque une assurance pour congé de maternité ou congé de paternité, dans le cas ou… Mais ce n'est pas ça, une assurance parentale, Mme. La ministre. (National Assembly of Québec, c: 25)

It was suggested by legislators that the problem with extending benefits to the parents of sick children so that they can take time off work is that it is possible for a child to become 'ill' at any point in his or her childhood, not just subsequent to his or her birth. However, both the issue of adopting adults as well as the issue of taking parental leave in order to take care of a sick child were trumped by Québécois legislators' interest in defending Québec's sub-state sovereignty over maternity and parental leave benefits. Because the argument in defense of provincial sovereignty maintained that maternity and parental leave benefits should be made further to the act of giving birth, the question of allocating benefits to adopted adults or mature children with disabilities or illnesses was disregarded.

What this suggests is that public discussions of family policies can change dramatically when the sovereignty of a sub-state nation is challenged. Thus, as we saw above, the PQ's intentions for the white paper policies were to use the 'sovereign' powers of the Québécois 'state' to implement policy that served the best interests of Québécois families. The interests of Québécois families, it was suggested, would be best served by implementing policies that would stimulate work-life balance for parents, allow parents to spend more time with their children and would encourage equality of opportunity for all children. However, legislators' public representations of the family changed when Québec's sovereignty over the QPIP was challenged. When Québec's legislative sovereignty over the matter of maternity and parental leave benefits was challenged by the Canadian federal government, the role of the 'family' in public conceptualizations of Québécois sovereignty and sub-state national policy legislation also changed. The rest of this chapter analyzes the extent to which jurisdictional battles over the QPIP made the concepts of reproduction and the family as well as population and pro-natalism more prominent in legislators' public discussions of the maternity and parental leave benefits plan. It does so by analyzing the ways in which legislators treated birth and adoptive parents in light of the judicial debates that took place both in the Québec Appellate Court and the Supreme Court of Canada.

Sub-state National Sovereignty and the Problem with 'Adoption'

The question of whether or not equal maternity and parental leave benefits should be extended to adoptive parents was debated during the legislation of both Bills 140 and 108. On 26 September, 2000, when the legislative process of the QPIP had just begun in the National Assembly of Québec, representatives from the *Regroupement pour un régime Québécois d'assurance parentale* made it clear to the National Assembly that the adoption of

a child should take the same precedence as the birthing of a child. M. Jacques Lizée of the *Fédération des unions de familles* argued that:

> Alors, pour la première concernant l'adoption, je me limiterai à vous dire qu'on s'est posé la question: Devons-nous mettre sur un pied d'égalité la naissance et l'adoption? On a répondu oui à la question, et vous verrez, à travers nos deux recommandations, autant sur la durée que sur le taux de prestation, que nous avons tenu compte à travers ça, de cette demande. (National Assembly of Québec, a: 29)

However, later during the National Assembly debates it was made clear that because women who actually give birth may need to take time away from paid employment both before and after the birth of a child because of the act of giving birth itself, the duration of the leave for biological parents should be longer than that made available to adoptive parents. In response to some representatives of the *Centrale des syndicats démocratiques*, PLQ member Russell Copeman said the following concerning adoptive parents' leave on 5 October, 2000:

> Vous suggérez dans votre mémoire qu'on traite les parents adoptifs sur le même niveau que des parents qui donnent naissance à un enfant. Il y a un groupe, ce matin, qui a suggéré qu'il y avait une certaine logique dans la différence de traitement, dans le sens qu'il y a un certain nombre de femmes qui prennent leur congé de maternité avant la naissance d'un enfant parce qu'elles sont obligées de se retirer. […] Et, dans ce cas-là, il est un peu normal que le congé pour l'adoption soit plus court que celui pour le congé de maternité parental. (National Assembly of Québec, e: 50-1)

Thus, the shorter period of remuneration for adoptive parents was justified on the basis that the mother does not, in fact, give birth to the child and, therefore, does not need as long a period off from paid employment. This treatment of adoptive parents in the National Assembly in 2000-2001 when the PQ was in power and jurisdictional debates between federal and provincial actors were unsettled can be contrasted with the reception of adoptive parents' demands in the National Assembly in 2005 when the PLQ was in power and the jurisdictional debates between federal and provincial actors were settled by an administrative agreement between the two levels of government. The latter debates took place after the administrative agreement was struck between Canada and Québec in March 2005, giving the provincial government full legislative sovereignty over maternity and parental leave.

One of the groups that was not present during the legislation of Bill 140 in 2000 but was present during the legislation of Bill 108 in 2005 was the *Fédération des parents adoptants du Québec (*FPAQ*)*. On 2 June, 2005, the president of the group, Mme. Claire-Marie Gagnon explained why she thought that the logic of discriminating between birthed and adopted children was flawed:

Dans les articles de la loi n° 140 qui ne sont pas modifiés par le projet de loi n°108, les prestations d'adoption n'incluent pas le temps accordé aux prestations de maternité. À la question à savoir pourquoi les mères adoptives n'auraient pas droit aux prestations de maternité, il nous a été donné comme raison le fait qu'elles n'accouchent pas. On accord donc entre 15 à 18 semaines de prestations à la mère pour accoucher. Nous pensons plutôt que ces semaines ont été accordées afin que la mère et l'enfant créent un lien d'attachement solide durant les premiers mois. En ce qui concerne l'adoption, l'importance du temps accordé pour créer ce lien est aussi grande, sinon plus, si on considère que cet enfant est déjà fragilisé et qu'il porte en lui la blessure d'abandon.

Nous constatons donc une différence flagrante de traitement entre les parents adoptants et les parents biologiques. Nous demandons donc au législateur de tenir compte d'un principe qui est la base de toutes nos mesures de protection de l'enfance, soit l'intérêt supérieur de l'enfant. Nous affirmons que l'intérêt supérieur de l'enfant sera malheureusement oublié si les dispositions de la loi sont maintenues. Tout enfant adopté a le droit d'être accueilli en tenant compte de ses besoins spécifiques, besoins à la fois semblables et différents de ceux d'un nourrisson. À ce titre, il a droit, comme les autres enfants, à 55 semaines de présence de l'un ou de l'autre de ses parents. (National Assembly of Québec, l: 36)

In this example Mme. Claire-Marie Gagnon attempted to justify to the National Assembly the reasons why it was important for legislators to grant benefits to adoptive parents that were equal to those being granted to birth parents. She did so by citing one of the original purposes of the bill, which was to promote equality of opportunities for children. As we saw in the pages above, both Pauline Marois and Nicole Léger cited equality of opportunities for children as one of the objectives of Bill 140 when it was first presented to the National Assembly for debate on 26 September, 2000. However, as we also saw in the pages above, jurisdictional battles limited the PQ's legislative power with regard to the QPIP when it was legislated in 2000-2001. In order to make the argument that the QPIP was within Québec's legislative jurisdiction, it was necessary that PQ representatives make the argument that maternity and parental leave benefits were necessarily a matter of social programming as opposed to income replacement.

In order to make the argument that maternity and parental leave benefits were necessarily a matter of social programming, moreover, Québécois legislators had to show that maternity and parental leave benefits were paid further to the birth of a child and not for the purpose of remunerating individuals who take time off work to care for a child. As a result Mme. Pauline Marois stated that the QPIP should not be legislated according to the same logic as the maternity and parental leave benefits provided to Canadians by the federal *Employment Insurance Act*. Rather, according to Marois: '[…] c'est pour ça que, nous, on veut le dégager et en faire en soi un congé *qui ne concerne que cette réalité de la naissance d'un*

enfant pour un couple qui choisit de prendre quelque temps pour en prendre soin […]'
(National Assembly of Québec, j: 8 [Emphasis mine]). However, once an administrative
agreement was struck in 2005, granting the PLQ full jurisdiction over the QPIP, interest
groups as well as legislators pressured PLQ representatives to provide benefits to both birth
and adoptive parents on an equal basis.

For example, a few moments after the president of the FPAQ, Mme. Claire-Marie Gagnon
insisted that the logic of according adoptive parents different remunerative benefits was
flawed, the secretary for the FPAQ echoed the president of the organization's statements.
Mme. Sonia Lodovichetti claimed that:

> En conclusion, nous pensons que notre proposition d'amendement permettra au
> législateur de modifier un aspect de la loi n° 140 qui est préjudiciable à l'intérêt
> supérieur de l'enfant adopté; de permettre une reconnaissance pleine et entière du
> statut de parent; de démontrer un soutien plus marqué à l'adoption comme partie de la
> solution requise dans le contexte du défi démographique; d'apporter un soutien dans
> les périodes d'adoption, notamment durant les dernières semaines de fébrilité et de
> stress; de renforcer l'établissement d'un lien d'attachement enfant-parent souvent plus
> complexe dans le contexte d'une adoption; de faciliter l'engagement paternel et
> maternel et son soutien dans son rôle d'accompagnement parental. (National
> Assembly of Québec, l: 37)

In this example the representative suggested that the logic of allocating birth and adoptive
parents equal benefits under a parental insurance scheme would best meet the goals of the
original PQ white paper policies: to promote equality with regard to men and women's roles
in both parenting and the workplace and to provide all children with equality of
opportunities.

Thus, during the final stages of Bill 108's amendment in the National Assembly on 8 June,
2005, PQ representative Camil Bouchard made a final plea on behalf of the adoptive parents
in Québec to have the adoption leave made equal in length and subsidy to the parental leave
allocated to birth parents:

> Mais l'intention de l'amendement que je m'apprête à déposer est la suivante: Nous
> avons tous été, je pense, saisis de la demande assez pressante des groupes de parents
> adoptants des enfants, et je veux ouvrir directement là-dessus, là, sans détour, parce
> qu'il faut régler cette question-là entre nous avant que d'aller ailleurs, parce que ça
> concerne directement l'objectif de la loi, sans en changer les principes.
>
> […]
>
> Or, nous avons été, comme parlementaires, saisis d'une demande de groupes qui
> d'ailleurs s'apprêtent à déposer une pétition de 3 000 noms ou 4 000 noms, je ne sais

plus, là, on verra, mais je pense que c'est 3 000, à l'Assemblée nationale, demandant que les conditions et les paramètres retenus en fonction de ce qu'on appelle les prestations de maternité soient qui soient offerts aux parents qui adoptent des enfants.

[…]

Nous avons maintenant, au Québec, bon an, mal an, entre 850, 975 adoptions. Une très grande partie de ces adoptions sont des adoptions en terre étrangère, et celà demande des efforts assez importants, des adultes qui décident d'avoir un enfant par voie d'adoption, de préparation.

[…]

Alors, Mme. La Présidente, j'aimerais déposer l'amendement suivant :

L'article 0.1 du projet de loi no 108 est modifié par l'ajout suivant, avant l'article 1, et j'ouvre les guillemets: L'article de la Loi sur l'assurance parentale (2001, chapitre 9) est modifié par l'ajout, après « maternité », des mots « et accueil ». (National Assembly of Québec, m: 7-9)

What we can infer from this statement by PQ representative Camil Bouchard is that, once the administrative agreement was struck between federal and provincial actors, legislators responded to interest groups by coming out in favour of legislating equal benefits for birth and adoptive parents. According to Bouchard, benefits should not only be paid further to the act of 'maternity,' or, giving birth, but also to the act of 'adopting,' or 'receiving' an infant into a family.

Although the word 'accueil' was not added to the final draft of Bill 108, several amendments to Bill 108 were made in order to make benefits granted to adoptive parents equal or similar to those granted to birth parents. For example, the original draft of Bill 140 read as follows:

2. Le régime a pour objet d'accorder les prestations suivantes:

1° des prestations de maternité;

2° des prestations de paternité et des prestations parentales à l'occasion de la naissance d'un enfant;

3° des prestations d'adoption d'un enfant *mineur*. (Bill 140 [Emphasis mine])

Where the original legislation restricted the allocation of benefits to children who were 'minors' it also made it impossible for step-parents to claim parental leave by adopting the child of their new spouse. On that subject Bill 140 stated the following:

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> **12.** La personne qui adopte l'enfant de son conjoint n'a pas droit aux prestations du présent régime. (Bill 140)

Although benefits were accorded to adoptive parents in Bill 140, claims to benefits were limited to those adopting 'minors,' suggesting that the adoption of a mature child was inadmissible. Also, claims made by step-parents to the adoption of their spouse's children were made inadmissible as this did not involve the act of 'birthing' or 'maternity.'

Conversely, the final draft of Bill 108 included the following provisions:

> **1.** L'article 2 de la Loi sur l'assurance parentale (2001, chapitre 9) est modifié par la suppression, dans le paragraphe 3°, du mot «mineur». (Bill 108)

Also, the preamble to the final amendments of Bill 108 stated that: 'Ce projet de loi rend admissible aux prestations d'adoption la personne qui adopte *un enfant majeur ou encore l'enfant de son conjoint*' (Bill 108 [Emphasis mine]). These provisions, included in the final draft of Bill 108, show that adoptive parents were given the same recognition as birth parents in their roles as 'parents,' and that inferences to the acts of 'maternity' or 'birthing' were not used to preclude adoptive parents from accessing parental leave benefits.

Throughout the legislation of both bills 140 and 108, the concepts of demography, fertility and reproduction played important roles in legislators' public representations of the QPIP. One of the most common ways in which these concepts were expressed was in terms of the 'Québécois family.' The concept of the family, as we have seen in previous chapters, was important to PQ legislators' conceptualization of the white paper policies and also remained an important idea for legislators to flag in the later stages of the legislation of Bill 108. In the following section, public representations of the 'family' will be analyzed in order to determine how, if at all, legislators' public representations of the family might have been different in the context of the legislation of the QPIP from the contexts of the other white paper policies' legislation. It also considers whether or not the legislation of the QPIP made the concepts of fertility, reproduction and the family more visible and, if so, to what extent the reproduction of the 'Québécois family' was imagined to be analogous to the reproduction of the nation.

The Family as the Site of Banal Natalism

With the advent of the modern welfare state and the provision of health and social programs, the 'state' has played various roles in the private domain of procreation, contraception and individuals' fertility decisions. Some 'pro-natalist' regimes have included anti-abortion legislation (Teitelbaum and Winter, 1985: 18, 42), measures to limit access to birth control (Teitelbaum and Winter, 1985: 146), and monetary incentives for women to stay at home to raise children (McIntosh, 1986: 326-7). However, political rights have made it increasingly difficult for governments to control the fertility of their citizens (McIntosh, 1983: 41; Watkins, 1990: 241). Thus, one of the ways in which the stimulation of fertility is discussed is in terms of family policy, or, 'family-friendly' policy initiatives (McIntosh, 1986: 324).

As Teitelbaum and Winter have suggested, the decrease in the centrality of the family and traditional family and kin structures in contemporary societies, has had an effect on the way that social and political actors institutionalize 'high' and 'low' fertility (1985: 14-6). That is, in societies where legislators adopt policy that has the purpose of encouraging higher birth rates among a specific population, the 'family' is often cited as the institution in need of the state's support. Although political actors who legislate support for families may have 'pro-natalist' objectives, financial or other social incentives to birth more children may also be expressed as the state's support of families (Folbre, 1994; McIntosh, 1983; Teitelbaum and Winter, 1985). Regardless of objectives, family policy is always expressed in the context of the nation-state wherein the legislation takes place. Therefore, the concept of the nation has also played an important role in the ways in which the concept of the family, reproduction and family policy is discussed (Reicher and Hopkins, 2001: 15-6; Watkins, 1990: 262, 264).

During the legislation of the other PQ white paper policies, the concept of the family played an important role in Québec legislators' public negotiations of provincial legislative acts. For example, on 27 May, 1997, during the legislation of Bill 145, the law that would eventually establish 5-dollar-a-day day care programs, PLQ representative, Geoffrey Kelly, recalled the nation-building status that family policy holds in Québec by citing former PLQ leader Robert Bourassa's family policies from the 1980s:

> Quand j'ai entendu la ministre parler tantôt du fait que le gouvernement du Québec dépense beaucoup d'argent sur la famille, je peux être très fier, parce que c'est la réalisation du gouvernement de Robert Bourassa. Quand M. Bourassa a pris le pouvoir en 1985, le gouvernement du Québec a consacré 800 000 000 $ par année pour l'appui à la famille, à la fois dans les services directs, dans les crédits d'impôt et

d'autres formes d'aide financière. Neuf ans après, c'était rendu à 2 700 000 000 $, plus que le triple. Parce que M. Bourassa a dit: C'est une priorité pour le Québec, c'est la famille avant tout. La santé et l'avenir de notre société québécoise passent avant tout par la famille.

Alors, je me réjouis que la ministre soit fière de la participation, de la contribution du gouvernement du Québec envers la famille québécoise, mais je veux qu'elle complète la phrase: Et c'est grâce au travail qui a été accompli par M. Bourassa et son équipe de ministres, entre 1985 et 1994. Parce que c'est ça, la vérité des choses, M. le Président. (National Assembly of Québec, x: 11 of 39)

In this example, the health and futurity of Québécois society is claimed by the PLQ representative to lie in his party's legislation of extensive family policy.

Also, during the legislation of Bill 112 on 21 November, 2002, PQ Minister Mme. Linda Goupil, used the concepts of the family and family policy to argue that Québec sets itself apart from Canada and the world with regard to its innovative family policy legislation. The family, in the context of Québec's law against poverty, was claimed to be the most basic unit of social analysis. As Mme. Goupil stated:

Dans ce projet de loi, on y retrouve aussi un outil de mesure de nos progrès et la recherche de nouvelles connaissances sur la pauvreté. Vous savez, on entend souvent des statistiques du Conseil du bien-être qui vient nous donner des statistiques qui ne correspondent pas à la réalité du Québec, qui sont à partir de ce qui se fait dans les autres, je dirais, provinces canadiennes. Mais, au Québec, il y a des mesures sociales que nous nous sommes données. Le coût du logement n'est pas la même réalité chez nous. Quand on regarde au niveau des mesures pour soutenir nos familles dans la conciliation famille-travail, nos services de garde à 5$, ça n'existe pas non plus ailleurs.

[…]

Pour illustrer la vision globale de la stratégie, j'aimerais vous rappeler qu'il y a cinq grandes orientations qui incluent chacun des axes d'intervention. Le premier axe, c'est prévenir et développer le potentiel des personnes en soutenant la famille, cellule de base de ce développement. Je pense, M. le Président, que tout le monde va être d'accord pour dire que c'est bien de soutenir par différentes mesures particulières, si on a, par exemple, des jeunes enfants à l'école qui vivent une situation de pauvreté et d'exclusion sociale, mais c'est d'abord sur l'ensemble de la famille qu'il faut intervenir... (National Assembly of Québec, y: 7-8)

From these examples, we can infer that the concept of the family played an important role in the relationship between Québec's nation-building projects and the legislation of the PQ's white paper policies.

However, in the context of the legislation of the QPIP, the concept of the family was expressed differently than it was in the context of the other PQ white paper policies. In the context of the other white paper policies, legislators made links between 'the family' and the provincial 'state' in order to express support for 'Québécois' families in a social policy context. In the context of the QPIP, the 'family' was the means by which demographic problems such as the aging Québécois population and low Québécois fertility rates were addressed. For example, during the public debates over Bill 140 on 17 October, 2000, the following dialogue took place between the representatives of the organization *Regroupement des jeunes gens d'affaires du Québec* (RJGAQ), Mme. Hélène V. Gagnon and M. Ugo Dionne, and PQ representative Pauline Marois:

> **Mme. Hélène V. Gagnon:** Un autre des angles peut-être que nous prenons et que d'autres groupes ne prennent pas assez souvent d'après nous, c'est l'angle du vieillissement de la population du Québec. Dans le cadre du Sommet, on a été à même de voir beaucoup de chiffres, notamment les chiffres de la Régie des rentes qui nous alarment un peu, qui nous inquiètent, qui démontrent que le vieillissement de la population va être plus important au Québec et plus rapide aussi que partout dans le reste du Canada, que même partout au monde, sauf au Japon. Donc, je pense qu'on a une responsabilité sociale, dans le cadre de toute la société, de s'assurer qu'on prenne des mesures toutes particulières au Québec pour favoriser la natalité, pour s'assurer qu'on donne les moyens à nos jeunes d'avoir des enfants, d'avoir de plus en plus d'enfants. Il faut se remettre dans le contexte. Aujourd'hui, ce n'est pas la même chose qu'il y a 10 ans et 15 ans: il y a beaucoup plus de femmes qui travaillent et qui veulent maintenir une carrière, tout en ayant des enfants, donc ce qui nécessite d'après nous aussi des mesures toutes particulières.
>
> Cet aspect du vieillissement, cet aspect de l'équité entre les générations est quelque chose qui nous préoccupe beaucoup et nous croyons que ce projet de loi là pourrait en partie venir aider ou contribuer, si on veut, à la natalité au Québec.
>
> […]
>
> **Mme. Pauline Marois**: Alors, c'est intéressant que vous le souleviez, en souhaitant qu'on vous entende dans les différentes entreprises. Mais, je pense qu'il y a quand même plus d'ouverture à cet égard qu'il n'y en a sans doute jamais eue. Des fois, le besoin amène la sensibilité, parce qu'on se rend bien compte qu'on a un problème aussi de démographie parce que les familles vivent des difficultés pour prendre soin de leurs jeunes enfants, etc. Et tout ce qu'on fera dans le sens de les soutenir ira, dans cette perspective, appuyer leur désir et leur goût d'enfants.
>
> […]
>
> **M. Ugo Dionne**: Je pense qu'il faut qu'on réalise, tout le monde ensemble ici, que nous ne sommes pas ici présentement pour simplement représenter nos membres qui ont environ une moyenne d'âge de 30 ans. Ce n'est pas juste pour nous qu'on est ici. Sur une base individuelle, oui, on peut l'être, *mais on est ici sur un programme de société, le taux de natalité est très faible. Et c'est la génération qui nous précède et*

surtout celle qui nous suit qui va être pénalisée, incluant la nôtre si le taux de natalité n'augmente pas. Et c'est sûr que les congés parentaux ne sont pas la seule solution à ces problèmes-là, mais c'est quand même un bon commencement. (National Assembly of Québec, j: 3, 7, 11 [Emphasis mine])

During this debate it was suggested by social actors that Québec is experiencing demographic problems with regard to fertility and population aging. It was suggested to legislators that, as the representatives of the Québécois 'state,' they have a responsibility to their constituents to stop or to diminish the effects of these demographic problems by assisting young families who face the challenges of the modern labour market. But most importantly, it was suggested that the role of the Québécois 'state' is also to ensure continuity between past and future generations of Quebecers by encouraging families to have more children.

Thus, the role of the state in ensuring the identity of the nation was highlighted through this particular family policy by virtue of the emphasis that was placed on the concept of population and the *reproductive* aspects of the family during the policy's legislation. Whereas the other white paper policies were the subject of nationalist commentary, the QPIP was the subject of both nationalist and 'natalist' commentary. While legislators did not specifically say that Quebecers needed to have more children, in these examples it was taken for granted that legislators have a duty to legislate the services that are necessary to provide the circumstances under which individual Québécois citizens can have as many children as they want without being hampered by modern socio-economic exigencies such as full-time employment. Furthermore, while all of the white paper policies may have had nation-building objectives, the QPIP was the only policy that was legislated under the assumption that family policies can affect fertility.

Billig (1995) discriminates between 'hot nationalism' –that which is expressed in the extreme and sometimes aggressive ideology of the supremacy of one nation over others– and 'banal nationalism' –that which tends to reflect the ideology of the everyday in a particular discursive consciousness of one national identity (8-10). The distinction that Billig makes is also that between nationalism that is explicit and nationalism that is implicit. The former can take the form of 'explicit' national agendas, such as the declared warfare of one nation against another nation or a policy campaign to finance 'national' cultural programs. The latter is not necessarily 'stated' but is assumed or taken for granted in the 'national' context to which any representative claims association. Thus, 'banal' nationalism is a form of national representation that does not use the 'nation' explicitly as the context for its public

reflections, but rather it lets the individual members of any given polity *assume* that the boundaries of the 'nation' are the necessary context in which the representatives of the nation discuss legislative and other nation-building objectives. This kind of 'banality' can only make sense to the individual members of any one nation if the nation in which they claim association exists in a world of 'other' nations. Similarly, when politicians discuss the concepts of 'population' and 'demographic trends' in the context of legislative policy, they are also assumed to be referring to the 'national' population and not the population of the whole world.

Pro-natalism, as was stated above, has also been expressed 'hotly' –that is through extreme and restrictive policies such as abortion bans– as well as 'banally' –that is, through the administration of social policies where politicians' expressions of 'the need for higher fertility' are taken for granted rather than stated obviously. One of the reasons why pro-natalism tends to be expressed 'banally' rather than 'hotly' is because pro-natalist policies tend not to be used in contemporary Western societies to force people to have more children in the same way that societies can 'force' people to seek employment. As we saw above decisions relating to fertility behaviour in contemporary Western democratic states are, for the most part, believed to belong to the individual and not the state. For these reasons, the argument in favour of legislating policies that are expected to have an effect on individuals' fertility decisions tend to be expressed banally in a discourse of the nation and the family.

The assumption that legislators make when it comes to articulating the nation's demographic interests is that the members of the nation have 'unmet' fertility needs. For example, Chesnais argues that among EU countries young couples who responded to a questionnaire regarding their desired number of children tended to state that they wish to have two children 'and sometimes three children' (1998: 94). However, obstacles to childbearing such as financial consequences associated with the cost of raising children, Chesnais suggests, 'has a devastating impact on fertility' (94). In order to have the number of children that each individual *would* have had if it were not for the financial challenges of the modern workforce, Chesnais argues, the *state* is often made responsible for legislating policies that make individuals' fertility goals achievable. 'As a mediator and a protector of the national interest,' Chesnais contends, 'the state must help its people to realize their wishes and, as a consequence, to reduce the gap between the desired number of children and the real one' (1998: 99). Banal natalists assume that if it were not for obstacles that prevent the individual members of any given nation from having the number of children that they *would* have, they

would actually reproduce enough children to avoid population implosions within their respective national polities. In practice, however, desirable population numbers are rarely stated; true fertility goals are not expressed explicitly but rather are taken for granted in the same way as the concept of the nation. In this way, banal natalism tends to be analogous to banal nationalism, especially in the context of family policy legislation where legislators can express the 'national' interest of families in terms of low fertility and falling birth rates.

As was suggested above, one of the ways in which natalism is expressed banally rather than explicitly is by the public representation of family policy initiatives. During the legislation of the QPIP, political party nationalists from both the PQ and the PLQ reiterated the importance of Québécois families to the stability of the Québécois population and the province's unique culture. For example, on 22 November, 2000, PLQ member André Tranchemontagne expressed the following in the National Assembly:

> Vous êtes surement, sans doute au courant, M. le Président, que les familles québécoises, de nos jours, ont atteint un taux de natalité extrêmement bas, le plus bas qu'on ait jamais connu et sûrement le plus bas parmi les plus bas au monde. Et, à ce moment-là, je pense que le programme ou l'assurance parentale que nous présente aujourd'hui la ministre, […] correspond vraiment à un besoin et peut permettre, je pense, à la ministre d'essayer de voir ou d'encourager les jeunes familles d'aujourd'hui à avoir des enfants.
>
> […]. Ceci étant dit, M. le Président, comme je vous ai dit, il répond à un besoin que l'on reconnait dans la société québécoise d'aujourd'hui, un besoin qui correspond, dans le fond, à des jeunes familles aujourd'hui, dont les deux parents travaillent et qui ont besoin d'aide pour les encourager à avoir une famille et a poursuivre la tradition de leurs parents, c'est-à-dire d'avoir, si possible, de nombreux enfants. (National Assembly of Québec, i: 16)

From M. Tranchemontagne's comments we can deduce that social and political actors in the province were concerned with population numbers, birth rates and fertility in the province.

In contemporary societies 'pro-natalism' is most often expressed in terms of 'low fertility.' In the example above, the expression of 'low fertility' was given meaning by a legislator who was providing the Québécois public with a program that was intended to 'curb' the demographic problem. Demographic concepts such as fertility as well as population growth and decline help legislators to express political and cultural nationalism in 'pro-natalist' terms. In the context of the QPIP, pro-natalism tended to be expressed in terms of the Québécois tradition of large families. The romantic view of the large Québécois family was solicited by PLQ member André Tranchemontagne in order to give meaning to the

government's parental leave plan that was, according to the representative, designed to help Québécois families have more children in the tradition of past Québécois families. Thus, in the context of the QPIP, banal natalists gave support to families so that the alleged 'true' fertility of the 'nation' could emerge.

The conceptualization of the Québécois family as the solution to Québec's current and future 'demographic challenge' was not exclusive to the members of the Parti Libérale du Québec. After the PLQ reached an administrative agreement with the federal government in March 2005, the PLQ members of the National Assembly proceeded with the second legislation of Bill 140, re-titled Bill 108. Because of the administrative agreement it was possible for PLQ members to legislate the parental leave plan as an income replacement plan rather than a social program because jurisdictional sovereignty over the matter was no longer an issue. As a result, PQ members accused the PLQ of removing itself from the program by not contributing to the funds that would have supported the maternity and parental leave benefits had it been a social program. Because the QPIP was legislated by the PLQ as an income replacement plan that employers and employees buy into as opposed to a social program that receives public funds from the government, PQ representative Camil Bouchard stated the following on 22 April 2005:

> L'État se retire de ce programme, il ne contribue pas un sou vaillant dans le régime d'assurance parentale. C'est comme s'il disait aux familles québécoises qui décident de relever le défi démographique: Bien, alors, vous voulez avoir des enfants? Alors, payez pour. Cotisez à vous seuls dans ce nouveau régime d'assurance parentale amélioré. Nous n'acceptons pas ce type d'approche et nous n'acceptons pas une approche géniteur-payeur en ce qui concerne les parents qui doivent relever avec courage, avec amour et avec passion aussi le défi démographique de notre société. (National Assembly of Québec, z: 1)

Accusing the Québécois 'state' of not assisting families with a publicly funded parental leave plan, PQ representative Camil Bouchard suggested that the 'state' was also abandoning attempts to help families meet the demographic challenge facing Québécois society. What this implies is that despite ideological differences in party principles, both members of the PQ and the PLQ represented the Québec Parental Insurance Plan on the public record as a family policy that had the means of rectifying 'low fertility,' and the 'demographic challenge' in Québec. Furthermore, both PQ and PLQ representatives competed to represent the 'best' interest of Québécois families.

As Reicher and Hopkins have argued, public representatives, regardless of their political stripe, construe social policies so that they are made to reflect both the priorities of the electorate and the electorate's 'national identity' (2001: 104). They do so by mixing future-oriented accounts of the nation with party policy (Reicher and Hopkins, 2001: 129). In the context of the legislation of the Québec Parental Insurance Plan, party policy was represented on the public record as being family-oriented and as having the purpose of supporting families in order to rectify Québec's 'low fertility.' Meeting Québec's demographic challenge, furthermore, was depicted as future-oriented because the reproduction of individuals that typically takes place between individual Quebecers within families was made analogous to the reproduction of the 'nation's' population. According to this logic, the population of Québec is reproduced discursively as a category that is imagined to represent a future reality. In order to guarantee the survival of a distinct national category it is imperative that not only 'Québec' be reproduced as a discursive 'national' category but also that individual Quebecers be reproduced as the members who populate that national category.

Cultural survival, or, '*la survivance*,' is a discourse that has been adopted by various political party actors and social as well as religious group representatives in Québec. A term which came to prominence in the nineteenth century, *la survivance* refers to a philosophy of Québécois history that depends upon a 'romanticized version of traditional farming culture in Québec' as well as 'ideals of generosity and respect for authority within a large, extended, patriarchal family; a strong work ethic directed toward the self-sufficiency of the family; and a French Catholicism in which language and faith were inextricably intertwined: to lose one's language was to lose one's chance at eternity' (Williams and Riley, 2001: 66). The concept of *la survivance* is, arguably, a process rather than static nationalist imagery. That is, although it is widely acknowledged that Québécois culture has changed and that the idea of the romanticized rural farmer with many children has lost much of its significance in twentieth- and twenty-first-century Québécois society, the idea of the family as the locus of culture, language and the generation of population numbers remains at the heart of family policy discourse. What becomes apparent by analyzing this process is that the concept of 'national' survival continues to be a matter of relative population numbers. The concept of national identity in Québec is not just about cultural survival but also about the reproduction of cultural *survivors*. The ways in which these two concepts become intertwined in the context of social policy legislation is important to the study of nationalism and the reproduction of national identity in the sub-state nation.

Conclusion

In this chapter it was established that the jurisdictional battles that took place between federal and provincial levels of government affected the ways in which Québécois legislators articulated the meaning of maternity and parental leave benefits. In the context of the legislation of the Québec Parental Insurance Plan, it was argued that establishing national sovereignty over the legislation of the maternity and parental leave benefits program trumped the principles of equality and work-life balance, two concepts that were believed to be important to the PQ's white paper policy initiatives. This was shown by analyzing legislators' treatment of birth and adoptive parents both before and after the administrative agreement was struck between federal and provincial government representatives. The jurisdictional battles, it was suggested, made the concepts of demography, fertility and reproduction more visible in the public record accounts of the legislation of the QPIP.

Not only did the jurisdictional battles make the concept of 'pro-natalism' more visible, but so too did they change the way in which the importance of the 'Québécois family' was expressed on the public record. The jurisdictional battles which led to the public discrimination between birth and adoptive parents made the concepts of 'natality' and fertility more visible on the public record. Furthermore, accounts of the Québécois family as the means by which the Québécois nation is reproduced showed the extent to which nationalism in Québécois society can engender a kind of banal natalist ideology among legislators and some social organizations. According to the logic of nationalism, the nation's members need to be supported by a strong 'national' welfare state that is independent of all other 'national' welfare states. This logic is true of most national democratic welfare state nations. However, according to the logic of banal natalism, the nation's members need to be supported not only for the purpose of reproducing a cohesive national identity but so too must they be supported by social policies that encourage them to reproduce the individual members of a territorial jurisdiction who will, in turn, adopt a common national identity. The purpose of supporting the biological reproduction of a specific population through 'pro-natalist' policies is that the nation thereby ensures its own survival through time.

Although the representatives of most modern Western welfare societies make links between the family and the state, what is important is the degree to which the state sees itself as representative of the nation and also the extent to which it actively seeks to guarantee the

survival of the nation through fertility rates. What the analysis of banal natalism in the context of the QPIP has demonstrated is that the concepts of population, fertility and demography play important roles in the public reproduction of nationalism and national identity in Québec. What this suggests, furthermore, is that scholars of nationalism studies have hitherto tended to ignore that the reproduction of the nation is not only social but is also biological and that the concepts of fertility and population play important roles in nation-building projects such as family policy initiatives like the Québec Parental Insurance Plan.

Chapter 8: Concluding Remarks on the Relationship between Population, State and Nation

This thesis has addressed some of Phillip Kreager's (1992) questions, which were introduced in chapter 1, concerning the relationship between nations, states and populations. By observing the ways in which the Québec Parental Insurance Plan was legislated in Québec it has been posited that there is a significant relationship between the nation, nation-building projects and the concept of population that is ready for further investigation. These observations build upon previous research that has concerned demography and nation-building objectives such as the administration of policy, both of which can be analyzed in the context of the modern state. Although some of this literature (Coale and Watkins, 1986; Klaus, 1993; Kreager, 1992; Mann, 1988, 1995; Offen, 1991; Siim, 2000; Teitelbaum and Winter, 1985), has already suggested an answer to the question of 'is there a relationship between a population and a state,' by examining the relationship of demographic institutions to modern statecraft and states' legislation of social policies with demographic dimensions, this thesis has posited a preliminary answer to the question: 'Is there a relationship between a population and a nation?'

By means of the extensive analysis of public record accounts of the legislation of Bill 140, this thesis has suggested that legislators in Québec were aware of both the historical and contemporary meaning of Québec's population numbers relative to Canada's population numbers, and that they brought this awareness into public discourse. Bringing the concept of 'population' into public discourse, it was argued, gave further meaning to Québec's legislative sovereignty as well as the role of social policy legislation in the sub-state nation's 'nation-building' projects. Legislators used the concepts of population, demography and fertility to draw relationships between nation-building social policies such as Bill 140 and the 'continuity' of Québécois national identity by suggesting that in order to reproduce the nation, the individual members of that nation must also reproduce themselves in order to guarantee the existence of the nation in the future.

Using the evidence collected from the legislation and implementation of Bill 140, this thesis has suggested that the literature on nations, nationalisms and nation-building has tended to overlook the demographic aspects of the reproduction of nations. This literature has observed the ways in which demography has evolved as a tool of the modern state but it has not fully considered the ways in which demographic institutions have taken the boundaries of the state for granted in order to define what kind of population is 'national.' The Québec

case has been useful for illustrating the relationship between the concepts of a 'population' and a 'nation' because it is a sub-state nation. Therefore policies that are undertaken by the province of Québec that may have explicit or implicit incentives for individual Quebecers to have more Québécois children, make the concept of a 'national' population more visible because the legislative jurisdiction in which the 'national' population is defined is sometimes contested. What this meant during the legislation of Bill 140 is that, although the 'national' population of Québec was represented 'banally' within Québec, the boundaries of the 'nation' were contested outside of Québec, making the relationship between the Québécois 'nation' and the Québécois 'population' much more visible than they would have been in a nation that is coterminous with the state and that is granted full legislative sovereignty over social policy legislation.

What the observations and analyses of Bill 140 have revealed is that the concepts of population and demography have played important roles in Québec's nation-building projects. What Connelly has proposed is that the challenge for researchers who are interested by the impact of population change on societies is to discover how the concepts of population and demographic change develop into institutional norms and practices in particular jurisdictions (2008: 8). Connelly has shown that most histories of population control are 'national' (2008: 9). In the context of world politics, moreover, Connelly argues that the concepts of population and population change are just as significant as territorial and ideological conflicts (2008: 4). One of the arguments for the significance of population change to territorial politics is that population control changes the way people view themselves collectively (Connelly, 2008: 8). On the basis of this observation Connelly has suggested that analyses of various 'national' programs to control population have challenged the assumption that the nation and the state are always coterminous; this, furthermore, has been made evident by sub-state nations' attempts to control their 'own' populations by promoting the fertility of the native-born (2008: 5). Thus, in the context of one particular sub-state nation, this thesis has observed and analyzed the effects of one legislative policy that had the stated purpose of promoting the fertility of the existing population on public representations of the interrelated concepts of the nation and population.

Based on observations made in the context of Québec society and the legislation of the Québec Parental Insurance Plan (QPIP), this thesis has suggested that a relationship between the concept of a population and the sub-state nation of Québec became much more discernible when the province's legislative sovereignty over maternity and parental leave

benefits was challenged by the Canadian federal government. This, it was argued, encouraged the representatives of the Québécois 'nation' to emphasize the function of the sub-state nation's legislative autonomy and its nation-building objectives in terms of population numbers, fertility and demographic change.

In the context of Québec's white paper policies, it was observed that all of Québec's family policy initiatives that were introduced to the National Assembly by the PQ in the late 1990s and early 2000s had nation-building objectives. During the legislation of policies such as 5-dollar-a-day day care and Québec's law against poverty, the concept of the Québécois 'nation' was singled out by legislators in order to emphasize the fact that social policy legislation takes place within 'national' borders and that the individuals for whom the policies are legislated represent a 'national' entity. However, because of the nature of sub-state sovereignty, jurisdictional battles between Québec and the Canadian federal government made the legislation of the QPIP more complicated. Judicial as well as legislative conflicts that arose between Québécois and Canadian representatives, it has been argued, made the nation-building objectives as well as the demographic objectives of the maternity and parental leave benefits plan more visible.

Because legislative sovereignty over the QPIP had to be defended by the representatives of the Québécois 'nation,' the relationship between the 'nation' and its 'population' was articulated in a language of cultural survival and national identity. That is, the maternity and parental leave plan that was legislated by the government of Québec was expressed in terms of encouraging the reproduction of the Québécois population. This showed that Québécois legislators were not only concerned with reproducing a sense of national history and culture in the context of a social policy but that they were also concerned with reproducing their own population of people who could continue to identify with the history and culture of their nation.

As Béland and Lecours (2005) have shown 'how the processes of identity formation/consolidation and territorial mobilization inherent to substate nationalism often involve a social policy dimension' (677), this thesis has shown that the processes of identity formation/consolidation in sub-state nations can also involve a population dimension. In the contxt of the QPIP, this population dimension tended to be expressed 'banally' in the form of social policy legislation. That is, within Québec, the concept of population was often invoked by legislators in terms of the obligation of the state to be able to provide its citizens

with the necessary programs to ensure an increase in fertility. But within Canada, the concept of population was debated more 'hotly.' That is, Québec's overall population numbers relative to Canada's overall population numbers were invoked in a federal context in order to draw relationships between relative population numbers and political sovereignty. What was crucial to the development of these analyses was the choice of Québec as a case study. Québec was useful as a case study because it is a sub-state nation that maintains a certain degree of sovereignty over the legislation of social policy. The Québec case, it was argued, exhibited characteristics that were most useful for observing the relationship between national identity formation, nation-building and the administration of social policy with a population dimension.

Although research on the relationship between nationalism, nation-building and social policy is represented by an established body of literature, this thesis represents an attempt to expand on its diversity by suggesting that not only is the relationship between nation-building and social policy ripe for further investigation but so too are the preliminary observations which have tended to show that the concepts of 'population,' 'population policy' and 'demography' add a very important dimension to this relationship. It does so by suggesting to researchers that the concepts of 'nationalism' and 'nation-building' are not only dependent upon public representatives' expressions of futurity and solidarity but also on the future reproduction of the population of people that make up the 'nation.'

Things to be learned from the Québec Case

As stated above, sub-state nationalism in Québec has undergone several important transformations, the most significant of which was the rise of a specifically 'Québécois' nationalism during the Quiet Revolution in the 1960s. With a focus on the engineering of a Québécois 'provincial state,' political parties concentrated on developing a sense of 'Québécois' solidarity by claiming that the welfare state policies that they implemented were representative of Quebecers' *own* 'national' identity. These 'nation-building' projects took the various forms of province-wide public pension schemes as well as the 'nationalization' of hydro-electricity and, later, extensive family policies such as those analyzed in this thesis.

Because of the nature of the decentralized Canadian federal system and the Canadian Constitution, which devolves legislative and administrative powers to the provinces, sub-state nationalism in Québec has developed in such a way that the province has been able to

adopt much of the same responsibilities and powers of the Canadian state in the context of the powers that are exclusive to provincial legislatures. This is especially true when it comes to the administration of social programs. Each Canadian province maintains a certain degree of sovereignty over social programming within its own provincial jurisdiction. However, in Québec, where, traditionally, the mobilization of a 'distinct' cultural and linguistic identity has occupied a central role in provincial politics, provincial sovereignty over social programming has been the site of national identity formation as well as a forum for nation-building projects such as the PQ's white paper policies. The white paper policies were analyzed above in order to give further context to the legislation and implementation of Bill 140.

In chapters 3 and 4 of this thesis we examined the main historical transitions in Canadian and Québécois nation-building. It was suggested that throughout the second half of the twentieth century, Québécois legislators have accomplished many 'nation-building' objectives within Canada in part because of the decentralized nature of the Canadian federal system. Decentralized federalism did not, however, discourage the growth of nationalist 'sovereignty' movements and the rise of a range of political party nationalisms that have advocated increased political autonomy for Québec over areas still restricted to the Canadian federal government as well as complete independence from Canada. What this thesis has argued is that because the Québécois nation is not coterminous with the Canadian state, areas of legislative sovereignty which are contested tend to make the relationship between the Québécois 'nation' and the Québécois 'population' more visible.

The concepts of population, population numbers and demography, this thesis has argued, have long occupied central roles in the collective imagination of 'nation-builders' in Québec. Because the linguistic dimension of Québec has added so much to the processes of national identity formation and consolidation, the numeric representation of French-speaking people in Québec as a proportion of Canada's overall population has been a concern for representatives in the province since confederation. This concern took on new characteristics with the rise of the welfare state in Québec in the 1960s. From this time forward the concepts of population growth and decline have been expressed in a number of broad-spectrum social policies aimed at increasing fertility in the province and maintaining a 'viable' French-speaking community. These broad-spectrum social policies, which we examined briefly in chapters 3 and 4, such as low-interest housing loans for families with children and Robert Bourassa's 1988 'baby bonuses,' have often taken the form of family

policies. These family policies have also often acted as income support in the form of tax breaks for parents who wish to have more children. Recently family policies, it was shown, have taken on the characteristics of 'work-life balance' initiatives such as the legislation of affordable day care and generously remunerated parental leave, which have the purposes of supporting parents who wish to have children but are faced with the challenges of full-time paid employment.

In this thesis it has been observed that many, if not all, of these policies have had 'nation-building' as one of their objectives. However, beyond this broadly established claim, this thesis has also argued that the concepts of 'population,' 'population growth' and even 'pro-natalism' played an equally important role in the social reproduction of national identity and nation-building in Québec. In the particular legislative context examined in this thesis it was claimed that these concepts added a different dimension to the common expressions of 'nation-building' projects and national identity formation in the sub-state nation. The 'pro-natalist' purposes of social policies, like the principles of national cohesion and national identity formation, it was argued, were expressed by legislators both 'banally' in the context of Québec's everyday practices of policy legislation and implementation, and 'hotly' in the context of federal Canada.

In this thesis it was determined that Bill 140, commonly known as the Québec Parental Insurance Plan (QPIP), was expressed publicly not only as a form of national identity consolidation but also as a 'pro-natalist' policy. That is, the QPIP had the explicit purposes of drawing the public's attention to fertility issues in Québec and of suggesting that demographic problems in the province posed a threat to the 'futurity' and 'continuity' of the Québécois nation. This public 'pro-natalist' discourse, moreover, was inextricably bound to nationalist representations of Québécois identity and played on public fears of population decline, linguistic disempowerment and cultural extinction. The fact that Bill 140 could be identified as 'pro-natalist' was ascertained by analyzing its development in the context of other family policies initiated in the province in the mid-1990s by the Parti Québécois, which were commonly identified as the 'white paper' policies.

The white paper policies introduced by Québec's PQ government in 1996 included innovative anti-poverty legislation and a publicly funded universal day care program which Béland and Lecours identify as an example of the relationship that can be drawn between nationalism and social policy (2005: 687). These new programs, it was argued, were

expressed publicly in a language that united Quebecers and fostered the concepts of social cohesion and social solidarity. They did not, however, meet the criteria of 'pro-natalist' policies because even though policy actors used their legislation to situate sub-state national unity and provincial sovereignty over social welfare measures at the forefront of their public discussions they did not, in these contexts, use the concepts of population, fertility and demography to reproduce the concept of Québécois identity. Also, the other white paper policies did not have the stated purpose of encouraging Quebecers to have more children in order to ensure the future of a specifically Québécois population. The QPIP, however, was different from the other white paper policies for several reasons.

Unlike the other white paper policies, the legislation of the QPIP was challenged by the Canadian federal government on the basis that it was outside of Québec's provincial legislative jurisdiction. The QPIP was not successfully legislated for implementation by the Parti Québécois after the party introduced the legislation to the National Assembly of Québec in 2000. It was legislated by PQ members in the National Assembly of Québec in 2000-2001 but failed to be passed into law because of a jurisdictional dispute that took place between the Québec provincial government and the Canadian federal government. This dispute concerned Québec's legislative authority over matters concerning income replacement policies under which it was claimed that all matters of a parental leave scheme should fall.

Although this claim was contested by the Attorney General of Québec in the Québec Court of Appeal, by the time the matter was settled with an administrative agreement the PQ had been replaced as the elected political party in the province by the federalist Parti Libérale du Québec. PLQ members were responsible for coming to an administrative agreement with the federal government, ending jurisdictional disputes over the matter and successfully re-legislating Bill 140 as Bill 108 for implementation in Québec in January of 2006. Even though the PLQ is a federalist party this did not mean that its members did not advocate as much political autonomy wherever possible for the 'nation' that they claimed to represent. For these reasons much of the public expression of Bill 140 as a 'nation-building' tool stemmed from both PQ and PLQ struggles with the Canadian government over the legitimacy of Québec's legislative sovereignty in the matter of the proposed parental leave plan.

Although they are not the source of the relationship between the nation and population themselves, jurisdictional battles that ensued as a consequence of the federal government's challenge of Québec's legislative sovereignty made the issues of population, fertility, demography and national survival more visible on the public record accounts of the bill's legislative and judicial processes. During the legislation and implementation of the QPIP, the concepts of population, fertility and demography were used to express the importance of Bill 140 to Québécois society and the necessity of Québec's legislative sovereignty over the matter. The concept of population and the fear of population decline were channelled by public actors in the context of Bill 140 for several reasons related to Québec's unique status within Canada, making Québec an excellent case study for the relationship between sub-state nationalism, nation-building and social policy with a population dimension.

Québécois political actors tended to focus on the 'pro-natalist' aspects of the policy during debates with federal government representatives. They did so, arguably, because there is an important relationship between political sovereignty (especially where that sovereignty is contested), nation-building projects (such as the Québec Parental Insurance Plan) and policy processes that may claim to reproduce not only the concept of national identity but also the population of people who claim association in the nation. This tends to support the argument that there was an observable relationship between 'pro-natalism' and political nationalism because pro-natalism, as an ideology, tended to be advocated when Québec's political sovereignty was challenged by Canadian federal authority. It also supports the argument that the members of a 'nation' can easily be conceived of as the members of a distinct 'population' when the political sovereignty that they claim from other 'nations' allows them to distinguish themselves from the members of all other political communities.

Conclusions Reached in the Substantive Chapters

In chapter 5, the first of three substantive chapters, we explored the ways in which the concept of a 'population' was expressed in a language of rights. The idea that people have a 'right' to 'have' property in a population was expressed, it was claimed, by means of a nationalist political discourse concerning the province of Québec's legislative jurisdiction over matters concerning maternity and parental leave benefits. Analyzing how political actors imagined a population as 'property' by claiming that a population is something that individuals have a 'right' to, has revealed the extent to which population plays a role in nationalism, social policy and nation-building projects in Québec. First, it was suggested

that the relationship between population, social policy and nationalism was made more visible in Québec because the QPIP had to be negotiated between provincial representatives and representatives of the Canadian federal state. In the context of the parental leave program, it was claimed that a superior parental leave policy administered by the province was the 'right' of Quebecers. In chapter 5 the expression of a parental leave policy as the 'right' of Quebecers to be able to have the number of children that they want as well as the 'right' of Quebecers to be able to guarantee the survival of 'their own' population was analyzed. This fundamental right to be able to choose to have the plan that Quebecers needed to increase the birth rate in the province was expressed by nationalists from both the PQ and the PLQ in a language of cultural sovereignty and sub-state national political power. Also, by claiming a 'right' to their own parental leave program national representatives of the Province of Québec also reproduced a perceived need for the rights of individual Quebecers to be able to 'have' their own population. The 'right' to have a program that would enable Quebecers to choose to have the number of children that they wanted was often expressed 'banally,' that is in a way that took for granted the fact that Québec necessarily 'has' its own population. However, in order to conceive of a population as something that individuals have a 'right' to, it was essential to have a federal context against which the right could be claimed.

The representation of the Québécois nation in the context of pro-natalism, population numbers and demography was also analyzed in chapters 6 and 7. In chapter 6 it was argued that jurisdictional battles between federal and provincial government representatives made it necessary for Québec legislators to claim that the QPIP was a social program rather than an income replacement plan. This necessitated a judicial and legislative discrimination between the definition of the purpose of the time that men and women take away from paid employment subsequent to the birth or adoption of a child. According to the logic of social programming, time is taken away from paid employment after the birth of a child for the purpose of recovering from the act of birthing itself rather than for the purpose of caring for an infant. This further necessitated a discrimination between men and women's attachment to the labour force, it was argued, because, whereas both men and women are equally capable of caring for an infant, only women are capable of actually giving birth.

This discrimination, it was suggested, demonstrated the extent to which sub-state nationalism trumped the feminist agenda that originally supported the legislation of the white paper policies, including the QPIP. This agenda included seeking better work-life balance

initiatives for women and equal opportunities for both men and women to be able to take time away from paid employment to take care of a newborn child. The jurisdictional battles that made the discrimination necessary, furthermore, also made questions of population, 'pro-natalism,' and demography more visible on the public record. This kind of discrimination, moreover, was also made in other contexts, as was argued in chapter 7.

In chapter 7 the public record accounts of the QPIP were analyzed in order to show how the nationalist expressions of 'population' and their role in the reproduction of Québécois society were made analogous to banal natalist expressions of the Québécois family and its role in the reproduction of more Quebecers. By scrutinizing Québec legislators' treatment of adoptive and birth parents during both the PQ's legislation of Bill 140 in 2000-2001 and the PLQ's legislation of Bill 108 in 2005, it was suggested that the jurisdictional battles between federal and provincial levels of government, which necessitated that PQ legislators treat birth and adoptive parents differently, changed the way in which the Québécois family was conceptualized publicly. It was claimed that public emphasis was placed on the family's ability to generate increased population numbers and that legislators solicited traditional Romantic depictions of the Québécois family as the site of population growth and cultural stability.

What was also established in both chapters 6 and 7 was that while in two separate contexts, the jurisdictional battles that took place between federal and provincial legislators may have led to some form of discrimination that opposed the initial objectives set for the white paper policies, this discrimination was rescinded once the administrative agreement between federal and provincial representatives was struck. This tended to show that provincial sovereignty over a legislative policy trumped other social democratic principles such as equality of opportunity, providing further evidence that there is a strong relationship in Québec between legislative sovereignty and nation-building objectives. This also tended to show that sub-state nation-building objectives in Québec did not simply take on social policy or 'national' sovereignty dimensions, but so too did they take on demographic dimensions. These demographic dimensions made the relationship between nationalism in Québec and the concept of population much more visible.

<u>The Relationship of Demography, Population and Pro-natalism to Sub-state Nationalism and Nation-Building Objectives</u>

In the introduction to this thesis it was argued that demography was an invention of the modern era that enabled modern states to take stock of their *own* populations for the purposes of organizing armies as well as keeping track of taxation and trade. In subsequent chapters it was observed that not only is demography a tool of the modern state but so too does it play a role in sub-state nation-building projects. Its function as a nation-building tool, it was observed, can be expressed publicly in the form of population policy, or, more precisely, 'pro-natalist' policy. The public expression of nationalism and nation-building in the form of population policy, it was argued, has hitherto been taken for granted. One of the reasons for this is because population policy, or, 'pro-natalism' is often expressed 'banally.'

Although it is widely accepted that demography is a tool of the modern state and that research has been conducted on the relationship between the development of modern states and demographic concepts such as fertility, mortality and birth rates, few have considered that demography and the concept of population play important roles in nationalism and nation-building. This thesis concludes its observations of the Québec Parental Insurance Plan by putting forth the idea that the demographic components of the 'nation' play an important role in nationalism and nation-building projects such as family policy legislation. The concepts of population, demography and 'pro-natalism' are all worthwhile investigating because they allow researchers to observe the ways in which social and political actors imagine that *their own* nations can be reproduced.

In the introduction to this thesis Benedict Anderson was quoted as having stated that: 'No nation imagines itself coterminous with mankind' (1991: 7). To this effect it has been suggested that because all nations are limited, they must each reproduce themselves. The ways in which a public consciousness of the necessity of reproduction occurs has hitherto tended to be left unexamined or has simply been taken for granted. Observations of the relationship between sub-state political nationalism and nation-building family policy projects in Québec have shown us that not only do cultural ideas, languages and rights have to be reproduced in a specific national context but so too do the speakers of the languages and the bearers of the rights. In Québec, one of the ways in which the Québécois nation is imagined to be reproduced is through the fertility of the nation's members. One of the ways in which this fertility was publicly encouraged, furthermore, was through the pro-natalist Québec Parental Insurance Plan.

In this thesis it was observed that the expression of pro-natalism on the public record by both social and political actors has a strong relationship to sub-state nationalism in the Canadian province of Québec and the concept of a Québécois national identity. This relationship was made particularly visible in the context of Québec and Canada because of jurisdictional battles that took place between both federal and provincial levels of government on the subject of the Québec Parental Insurance Plan. The observations documented above represent valuable additions to the literature on nations, nationalisms and nation-building.

Not only are these observations representative of an area of nationalism studies that has been scarcely investigated but so too do they represent an opportunity for researchers to further examine the extent to which the demographic components of social policies may influence nation-building projects in other national contexts, whether those contexts represent nation-states, sub-state national jurisdictions or other forms of 'stateless' nations. Further empirical observations, it is believed, would be beneficial to the theoretical development of a literature that concerns various forms of state organization, nationalism, population numbers and the public relationships that are engendered between these concepts. They may also suggest the extent to which 'banal natalism' is or is not a key component of any nation-building project. Québec and the legislation of the Québec Parental Insurance Plan is representative of only one among many possible contexts for additional explorations in a disciplinary area that is ripe for further research.

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