The Role of Para-governmental Institutions in Language Planning

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Établie en 1993 dans des circonstances particulières, la Welsh Language Board a élaboré des plans afin d'assurer l'égalité de statut du gallois et de l'anglais et s'est mise en œuvre de réaliser ses priorités avec l'aide de plusieurs intervenants. Lors de la dévolution en 1998, l'Assemblée du Pays de Galles a adopté une politique linguistique dont les termes sont présentés et critiqués ci-dessous. L'Assemblée aimerait que cette commission soit intégrée à un ministère, mais ce pourrait être un problème, car il est avantageux à bien des égards d'avoir un organisme indépendant qui fait la promotion d'une politique linguistique.

I. Introduction

Wales represents an unusual case in that language policy is determined largely by an agency of the state which operates at arm's length from the daily pressures of national government. Having established itself as an innovative and effective agency during the period 1993-2004, the future of the Welsh Language Board is now under review. This paper will illustrate how successive changes in the British/Welsh political context have impacted on the role of para-governmental institutions and have delivered an unusual, if pragmatic, solution to questions concerning the promotion of a minority language and the development of a bilingual society. The sub-text will be an analysis of how the dialogue concerning key questions has been handled by various actors within the system.

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II. The Key Questions and Issues

How is language policy determined? Which agencies undertake language planning and consider strategic language policy issues? What is the relationship between central, national and local government and such para-public agencies? How has this evolved over the past 20 years? What is the current situation? How is this likely to change and with what effect, both in terms of increasing the effectiveness of language policy and in integrating/mainstreaming language considerations into all aspects of governance in Wales?

A. Foundations, 1988-1998

In Wales bilingualism within education, public administration, the legal system and local government has been incremental. It was the result of key legislation. First, the *Education Reform Act 1988*[1] granted a core subject status for Welsh in all schools within the statutory education provision (ages 5–16). Later, the *Welsh Language Act 1993*[2] gave equal validity to Welsh and English and established a statutory Welsh Language Board. Finally, the *Government of Wales Act 1998*[3] established a bilingual National Assembly for Wales as part of the UK's devolution measures and constitutional reform.

The challenge of the nineties was to realize a fully functional bilingual or multilingual society through creating new opportunities for language choice within the public, voluntary and private sector of the economy. Legislation was critical, not only in authorizing linguistic rights, but also in establishing the infrastructure wherein such rights can be exercised without let or hindrance. Too often, individuals and groups have a titular right to certain services, but such rights are held in abeyance because of a lack of commitment to honour language choice rights at the point of local contact.

The *Welsh Language Act 1993* provided a statutory framework for the treatment of English and Welsh on the basis of equality. Its chief policy instrument was the re-fashioned and strengthened Welsh Language

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1 (U.K.), 1989, c. 40.
2 (U.K.), 1993, c. 38.
3 (U.K.), 1998, c. 38.

Board, established on 21 December 1993, as a non-departmental statutory organization. It was funded by a grant from the Welsh Office, which, for example, in the year ending 31 March 1998, prior to devolution, totalled £5,756,000. It had three main duties:

1. Advising organizations which were preparing language schemes on the mechanism of operating the central principle of the Act, that the Welsh and English languages should be treated on a basis of equality.
2. Advising those who provide services to the public in Wales on issues relevant to the Welsh language.
3. Advising central Government on issues relating to the Welsh language.

The 11 Board members were appointed by the Secretary of State for Wales and they devoted two days a month to the activities of this quango. The day-to-day work of the Board was undertaken by 30 staff members divided into seven areas of responsibility, namely, Policy, Public and Voluntary Sector, Grants and Private Sector, Education and Training, Marketing and Communication, Finance, and Administration.

The *Welsh Language Act 1993* details key steps to be taken by the Welsh Language Board and by public sector bodies in the preparation of Welsh language schemes.[4] These schemes are designed to implement the central principle of the Act, namely, to treat Welsh and English on the basis of equality. Between 1995 and 1999, a total of 67 language schemes had been approved, including all 22 local authorities. On the eve of devolution, notices had been issued to a further 59 bodies to prepare schemes. Undoubtedly, such schemes have been very instrumental in changing the character of bilingual services within public authorities, but just how effective they have been in changing the linguistic choice and behaviour of both providers and the general public is difficult to evaluate. Systematic monitoring of the schemes by the Language Board as part of its audit function reveals a wide variation in behaviour patterns.

Under the spirit of the 1993 Act, the Board has also developed partnerships with the 22 Unitary Authorities through Rhwydiaith (Network),

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[4] Official for Official Statistics, *Welsh Language Scheme*, prepared in accordance with s. 21(3) of the *Welsh Language Act*, *supra*, note 2, received the full endorsement of the Welsh Language Board on November 4, 1998; online: <http://www.statistics.gov.uk/about_ns/downloads/ONS_WLangSch_Eng.pdf>.

with the Welsh Consumer Council, the Welsh Council for Voluntary Action and with a range of private sector organizations. During the financial year 1997-98, grants totalling £2,254,792 were distributed under the Board's main grants scheme to organizations as varied as the National Eisteddfod, the Welsh Books Council and Shelter Cymru (Welsh Language Board, 1998).

The Board also had the right to extend its remit in other sectors covered by the Act, and had given priority to education and training. By June 1998, the Welsh education schemes of two local authorities had been approved and a further 15 were being developed (Welsh Language Board, 1998). Further and higher education colleges, together with Welsh-medium pre-school provision have also received attention. Since 1998, Education Learning Wales, with input from the Board, has co-ordinated a national strategy for Welsh for Adults, and this sector has benefited from a more robust and systematic provision of service, accreditation of Adult Tutors, resource development and strategic intervention related to skills acquisition in key areas of the economy, such as insurance and banking, retails sales and the legal profession. In total, grants of £2,027,000 were distributed in the year 1997-1998 to local authorities to promote Welsh language education.

The Welsh Language Board's primary goal is to enable the language to become self-sustaining and secure as a medium of communication in Wales. It has set itself four priorities: (1) to increase the numbers of Welsh-speakers; (2) to provide more opportunities to use the language; (3) to change the habits of language use and encourage people to take advantage of the opportunities provided; and (4) to strengthen Welsh as a community language.

In order to meet its first aim of increasing the numbers speaking Welsh, it has focused its efforts on normalizing the use of Welsh among young people by seeking to:

- Ensure that the provision of Welsh-language and Welsh-medium education and training is planned in conjunction with the key players, to ensure an appropriate level of provision for young people to obtain Welsh-language education services;
- Discuss and formulate policies and effective initiatives for promoting the use of Welsh among young people, in conjunction with relevant organizations;

- Ensure the proper provision of public and voluntary services for young people through the medium of Welsh (in conjunction with public and voluntary bodies); and
- Provide grants for initiatives which promote the use of Welsh among young people.

The Board's second objective is "to agree measures which provide opportunities for the public to use the Welsh language with organizations which deal with the public in Wales, giving priority to those organizations which have contact with a significant number of Welsh-speakers, provide services which are likely to be in greatest demand through the medium of Welsh or have a high public profile in Wales, or are influential by virtue of their status or responsibilities."

In order to increase opportunities the Board has:

- Agreed Welsh language schemes with organizations in accordance with the stated objective;
- Encouraged providers of public services to regard the provision of high-quality Welsh-medium services on a basis of equality with English as a natural part of providing services in Wales;
- Encouraged Welsh-speakers through marketing initiatives to make greater use of the services available through the medium of Welsh;
- Worked closely with the voluntary sector in formulating and implementing Welsh-language policies, particularly in relation to the delivery of child- or youth-related services and special needs;
- Promoted and facilitated the use of the language in every aspect of education and training and ensured that appropriate provision is made for persons who wish to learn Welsh;
- Maintained an overview of the strategic educational plans and schemes of all education authorities and establishments, and created partnerships with the agencies concerned to improve provision where appropriate;
- Ensured that planning of provision for vocational education and training takes account of potential increases in demand from employers for Welsh-speakers;

- Promoted the authorization and standardization of Welsh-language terminology, in conjunction with relevant academic and professional bodies;
- Encouraged professional training and recognized standards for translators working with Welsh;
- Ensured that appropriate Welsh-language software continues to be developed to meet the needs of users; and
- Encouraged the increased provision of Welsh in the private sector.

A third objective is to change the habits of language use and encourage people to take advantage of the opportunities provided. This is done through an innovative marketing campaign, including attractive bilingual public display signs, the development of a Welsh spell-checker and online dictionary, a direct Welsh Link Line for queries regarding the Welsh language and language-related services, a language in the workplace portfolio/file, a Plain Welsh campaign with excellent guidelines for writing Welsh, an agreement with Microsoft that a Welsh version of its computer functions be available by 2005 and other improvements to the infrastructure so necessary before a real language choice can be made by the general public.

The Welsh Language Board's fourth objective is "that Welsh-speaking communities be given the facilities, opportunities and the encouragement needed to maintain and extend the use of Welsh in those communities." The Board has committed itself to:

- Undertake research into the linguistic make-up of Welsh-speaking communities and the social and economic factors which affect them;
- Identify the main threats to the Welsh language within Welsh-speaking communities, and formulate effective action plans for addressing potential problems in conjunction with key players across all sectors;
- Discuss and develop with unitary authorities, especially those in the traditional strongholds, their role in terms of administering language initiatives and co-ordinating language policies;
- Promote co-operation between communities to foster mutual support, encouragement and understanding;

- Assess the effectiveness of existing community-based initiatives (such as "Mentrau Iaith") as a means of promoting the use of Welsh and their usefulness as a model for facilitating the creation of new locally run initiatives;
- Facilitate the establishment of local language fora to promote Welsh-language initiatives, to create opportunities for using Welsh and to motivate and encourage people to do so;
- Promote the learning of Welsh by adults (including the provision of worthwhile opportunities to use Welsh outside the classroom and other ancillary support); and
- Provide grants to support activities to strengthen Welsh within the community.

The pre-existent Welsh Office governmental system, though strong in parts, was more concerned with implementing statutory provision, rather than in language planning and the creation of a new vision for bilingualism in Wales. It discharged its remit primarily through the Welsh Language Board, a quango, established by the UK Conservative Government in 1989, to act as a sounding board for the development of Welsh-medium services. But from this brief review we may conclude that by 1999, the Welsh Language Board had established itself as the principal agency for the promotion of Welsh in public life.

B. Impact of Devolution on the Formulation of Language Policy, 1999-2004

The National Assembly has been established and functions as a bilingual institution. This puts into operative effect the reality of two official languages as acknowledged in the *Welsh Language Act 1993*. A priority for the first term was a thorough review of the condition of Welsh carried out by both the Culture and the Education Committee. A key recommendation was the political goal of establishing a bilingual society, to be encouraged by the implementation of a new government strategy as enunciated in *Iaith Pawb*.[5] Critical decisions on language

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[5] National Assembly for Wales, *Iaith Pawb*, A National Action Plan for a Bilingual Wales, March 2003. For further information on measures implemented to encourage the use of

policy were now being taken by involved and informed politicians. There is a perception that interest groups, local government representatives and officers, specialist agencies, individuals and social movements are somehow "empowered" by devolution and are thus participants in the process of formulating and implementing language-related policies. All this has resulted in additional focus, resources, energies and improved harmonization of language-related policies. Partners in Wales are far more self-consciously concerned with an approach we may label "holistic language planning".

Following a comprehensive review of the state of Welsh undertaken during 2002, the Wales Assembly Government has committed itself to achieving these five goals:

1. By 2011 increase the proportion of Welsh speakers by 5 percentage points from the 2001 Census baseline.
2. Arrest the decline in heartland communities, especially those with close to 70 per cent + Welsh speakers.
3. Increase the proportion of children in pre-school Welsh education.
4. Increase the proportion of families where Welsh is the principal language.
5. Increase the provision of Welsh-medium services in the public, private and voluntary sector.

The measures set out in the Action Plan are to be assessed against a number of key targets. Its principal policy options for achieving these aims are:

1. The Wales Assembly Government's newly established Welsh Language Unit.
2. Mainstreaming Welsh language considerations into all policy development.
3. Developing national language planning through the Welsh Language Board/ Bwrdd yr Iaith which has been strengthened, in both human and fiscal resource terms (now 65 staff members and budget

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Welsh, see Welsh Assembly Government, *Iaith Pawb and Welsh Language Scheme Annual Report 2003-4*, online: <http://www.wales.gov.uk/subiculture/content/iaithpawb-wls-report-2003-4-e.pdf>.

of £6 million per annum), and given a central role in implementing the goals.

4. Developing the Welsh Language Board's research and analysis capacity.
5. Creating evidence-based policies in the field of language revitalization.

Iaith Pawb is a significant declaration and represents a genuine, historical commitment by government. The national strategy includes several of the recommendations put to the Assembly's Education and Culture reviews during 2002; the most notable of which are:

- The operation of the principle of language equality.
- Devising an effective in-house bilingual culture.
- Deciding how Welsh will be a cross-cutting issue in all aspects of policy.
- Producing bilingual legislation.
- Developing a professional bilingual legislative drafting team of jurilinguists as in Canada.
- Developing innovative IT translation procedures.
- Prioritizing the National Assembly for Wales's translation needs.
- Finessing Wales Assembly Government's relationship with Welsh Language Board and its many partners.
- Relating its bilingual practices to other levels of government, institutions and to civil society.

A critical area of sociolinguistic maintenance is language transmission both within the family and within the education system. Thus, a campaign has been launched to boost language acquisition, principally through the statutory 5 – 16 age education provision, lifelong learning, and latecomer centres. In an increasingly mixed language of marriage context, the successful pilot project on Twf — the Family Language Transfer programme — will be extended to other sites in Wales. There is a commitment to boosting the bilingual services of National Healthcare Services Wales, of Iaith *Gwaith,* the Welsh in the workplace programme. Finally, in order to access such increased choice, government

has recognized the need to invest in language tools and the socio-cultural infrastructure, as detailed below.

Given such a bold agenda, it is not surprising that the strategy has come under a great deal of scrutiny from critical commentators, government partners and from those within the civil service charged with delivering this programme of reform. Williams[6] has argued that while *Iaith Pawb* contains fine rhetoric which legitimizes policy, it is also replete with ill-defined mechanisms and says next to nothing on monitoring the effect of policies. The discussion on education is a major weakness, and this lacuna will be addressed by the end of 2006, when a seasonal review will be implemented. There is insufficient detail on developing Welsh within the statutory sector, far too little on second language learners, and no attention to the rates of language attrition between primary, secondary and tertiary level. Compounding this, of course, is that insufficient resources are available to deliver even what is promised in the strategy.

Other main criticisms of the *Iaith Pawb* that can be addressed towards this bold policy include:

- The lacklustre political will to implement total strategy as a coherent package.
- Community regeneration is promised, but partial or deficient remedies offered.
- Measures to safeguard the "heartland" are marginalized within the proposals.
- No focused priority, thus policy lacks political conviction.
- No proposed consideration of a stronger *Welsh Language Act*.
- Treatment of private sector is minimal and cursory at best.
- Far more professional attention to policy is necessary to make it convincing to economic interest groups.
- National planning policy needs specific guidance on how to treat the Welsh language as a material issue.

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[6] Colin H. Williams, "*Iaith Pawb*: The Doctrine of Plenary Inclusion" (2005) 17:1 Contemporary Wales 1.

- Technical Advice Note 20 provides an outline on Welsh language considerations but it is rarely invoked and in need of complete reform.
- No housing development guidance is provided.
- Linguistic impact assessments are needed (Commissioned research on linguistic impact assessments — 13 local authorities, two National Parks, Welsh Language Board, academics — to be sent for public consultation and then review in the short term).
- Wales Spatial Plan is lacking.

The Welsh Language Board has been designated as the principal instrument by which this policy is to be realized and has been given significant additional resources so as to recruit more specialist staff, extend its remit and open new offices in locations in west and north Wales. In many ways, the principal strengths of the *Iaith Pawb* strategy reflect the considerable input by the Welsh Language Board to the consultative process and to the formal and informal dialogue which is constantly undertaken between the Minister, the Wales Assembly Government Language Unit and the Welsh Language Board. Recall that the Welsh Language Board has both an advisory and monitoring role in terms of the Wales Assembly Government's own Language Plan. Over and above this, the Wales Assembly Government has to determine how it will handle a number of pressing internal issues *viz.* the operation of the principle of language equality, devising effective in-house bilingualism; decide how Welsh will be a cross-cutting issue influencing all policy; the production of bilingual legislation; the development of a professional bilingual legislative drafting team of jurilinguists as in Canada.

Among its medium-term challenges are the need to extend its innovative IT translation procedures; prioritizing its translation needs; finessing its relationship with Welsh Language Board and its many partners; relating its bilingual practices to other levels of government, institutions and to civil society.

Even if government were to attend to the above, there would remain significant structural weaknesses in terms of the implementation of language planning in Wales. Thus, even the agreed Wales Assembly Government Language Schemes can remain symbols of good intent rather than genuine services at the point of local demand. This not only bespeaks of an inefficient delivery of service but also suggests an absence of genuine participatory democracy. Second, there is critical need to monitor the aims and impact of all the language schemes, whether at

national or local government and within the public institutions, for many such schemes are now being renegotiated as they enter their renewal phase. The crunch question is just how much value has been added to public administration and bilingual service delivery by the adoption of such schemes? Has language-related behaviour changed? Finally, and more philosophically, the devolution processes promise of empowerment, ownership, participation and partnership needs to be rooted in a national infrastructure and not conceived as "add-ons" to an already overworked if not overwhelmed public service.

Beyond the realms of public administration there remains the pressing need to promote Welsh within the private sector. This would include: greater political and legal encouragement, with sanctions where necessary; the adoption of holistic perspectives rather than a fragmented and sectoral mind-set; the development of appropriate terminology and sharing of best practice; a Language Standardization Centre; the highlighting of the economic benefits of bilingualism; encouraging a professional discussion regarding the role of Welsh in the economy; developing role models among the small- and medium-sized enterprises and larger companies; and influencing key decision-makers who are often based outside Wales.

In my opinion, if a revised strategy is to succeed, it must tackle the following issues:

- Creation of a National Data Centre for the analysis, evaluation and monitoring of all types of statistics reflecting socio-economic trends.
- Establishment of a National Language Planning and Resource Centre centred on the Language Board.
- A review of the way in which Welsh is taught and used as a medium for other subjects within the Statutory Education sector.
- A comprehensive review of teacher training for Welsh medium and bilingual schools.
- Priority action in the designated "Fro Gymraeg" districts.[7]

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[7] Of course this is dependent upon an official designation of the Welsh Heartland districts and a consideration as to who will co-ordinate proposed remedial action.

- More concerted action by the Welsh Development Agency, Welsh Language Board, Wales Tourist Board, and Education Learning Wales to implement the integrated planning and policy proposals agreed within the Language and Economy Discussion Group.
- Urgent consideration to the need to expand the bilingual education and training opportunities afforded by the Welsh University and Further education sector.
- Extension of the *Welsh Language Act*, both to strengthen the status of Welsh within a revised political landscape and to take account of the rights of consumers and workers within designated parts of the private sector.

If the Assembly Government were to adopt these recommendations, then the strategy enunciated in Iaith Pawb would be in a far stronger position to deliver what it currently promises.

C. Outstanding Issues for the Medium Term

Despite all the advances in the execution of language-related policy, both the political process and Welsh civil society has yet to determine the answer to several key questions which will influence our expectations as to what is appropriate action in the construction of a bilingual society. Thus, we may ask in whom are basic language rights vested? Are they to be predominantly individual or institutional in character? Do individual citizens, regardless of where they live in Wales, have rights — or are we satisfied with restricting our statutory obligations to the public institutions charged with implementing an equal opportunities policy? What rights, if any, do communities have in this process? Could a proposed Welsh Heartland region be the bearer of differentiated language rights or is that notion counter-productive to national planning? How will the various European Conventions impact on this settlement and who deals with issue of monitoring?

A second set of issues is whether we maintain a public sector or plural domain approach to language policy. The initial language schemes were targeted at the public sector, education and the legal domains. But to be truly effective, language policy should seek to influence behaviour in most or all socio-economic contexts. Despite the tension between idealists and pragmatists which such an extension of social intervention occasions, there is an increased determination by language planning

agencies and national government to promote bilingual work practices and champion Welsh language skills within the economy. Clearly, there is the danger that such initiatives are driven from above only and that the heralded "partnership" conception of sociolinguistic intervention can appear hollow. Thus, a critical question is how can the various partnerships between central and local agencies, community initiatives, the voluntary sector and the world of work, continue to mobilize society's energy to reinforce the central thrust of language promotion and implementation of language rights? Is there a role for language issues to be better integrated within both the equal opportunities agenda and any proposed well-being legislation, along the lines of improving the environmental health of communities and considerations of sustainable development?

III. The Future of the Welsh Language Board and the Determination of Language Policy

Currently, the Labour Government within the National Assembly is implementing its recent pledge to abolish the former quangos. On July 14, 2004, at the very end of the Assembly's Summer Term, it announced that the three largest quangos, the Welsh Development Agency, the Wales Tourist Board and Education Learning Wales (a post-16 educational agency) were to be abolished and incorporated directly into government departments. A later statement by Rhodri Morgan, First Minister of Wales on November 30, 2004 specified the absorption of the Welsh Language Board into the Wales Assembly Government by 2007. This has set in train a series of discussions about both the role of the Welsh Language Board in the interim and the nature of language planning and policy formulation within the new proposed structure.

A. The Political Context

The first consideration is that this reform, although long heralded in political rhetorical terms, took many by surprise for it was generally believed that most of the former quangos had discharged their responsibilities very well and had become "normalized" within the system. Indeed, several of them, such as the Welsh Development Agency and the Welsh Language Board, had been celebrated for their innovative and

effective contribution, often operating at the cutting edge of government policy.

Kevin Morgan, the most vociferous critic, but one who speaks with authority as a leading intellectual and the former Chair of the "Yes for Wales Campaign" which brought about devolution, avers that

> the manner in which the decision was made was not a good advert for open and consultative government. The conspicuous absence of consultation with any of its partners exposes the government to the charge that partnership, the principle which it commends to others on a daily basis, and the principle which ostensibly informs everything it does, can be unilaterally jettisoned when the occasion demands.[8]

Morgan advises that such decisions were made within a wider context, namely:

- *The Treasury Spending Review* spelt a much tougher regime of public expenditure in the UK, with Gordon Brown committed to securing job cuts in the civil service, and the "bonfire" could help to deliver some of these in Wales.
- *The Efficiency Review*, spearheaded by Peter Gershon, is second to none in importance in Whitehall because it claims to have identified some £20.5 billion in "efficiency savings" by merging and rationalizing the back office functions of public sector bodies, savings that could be invested in mainline services, again the "bonfire" could contribute to this agenda.
- *The Richard Commission* report on future powers was causing increasing conflict between Labour MPs and Labour AMs and a "bonfire" would boost the status of the Assembly in the eyes of sceptical MPs ahead of a special party conference planned for 11 September.

He also argues that a more pressing factor was the deteriorating relationship between the Welsh government and the Welsh Development Agency, its flagship quango. The Government's justification was that within the new structure the incorporation of the quangos will render their functions more accountable. But Morgan asks, accountable to whom?

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[8] Kevin Morgan, "Bonfire of the Quangos: The Missing Debate" (Winter 2004) Agenda, Cardiff: Institute of Welsh Affairs.

To Cabinet ministers? To the Assembly? Or to Welsh civil society? Given that such distinctions are rarely, if ever, made, Morgan is of the opinion that the wider public and civic dimensions of accountability have "shrivelled into a narrow and desiccated form of political accountability."[9]

Unlike the former Welsh Office system, which exercised a form of "democratic deficit,"[10] Morgan reminds us that in post-devolution Wales, the democratically elected minister holds his or her quango to account in multiple ways: "by controlling the purse strings, by appointing the chair, by selecting the board, by setting the strategic targets and, ultimately, by sacking the chair and the board if the targets are not met. On top of all these political control mechanisms, the quango is also subject to internal and external auditors and, most visibly, to the public scrutiny of the relevant subject committee of the Assembly."[11]

He is concerned, based upon the evidence of previously incorporated bodies such as the Wales Trade International, that the subject committee system would not bring the same level of scrutiny to bear on its enhanced remit because it lacks the time and the expertise of a specialized quango board. This point was also made by Mike German, leader of the Liberal Democrats within the nation, who doubted that the civil service had the same capacity as Board specialists to scrutinize and initiate bold policies.

Morgan makes a telling democratic point in that politicians' view of accountability is very focussed, a narrow view which essentially concerns day-to-day control. Morgan makes a case for the wider perspective whereby agencies are made accountable to the public forums of civil society — to the boards of specialized professionals, to the glare of the media spotlight and to open and transparent public debate. There is a real sense, for example, that the activities, pronouncements and public meetings of the Language Board are felt to be part of the mainstream considerations of Welsh speaking circles, less so perhaps than of the majority. This is in part because of the relevance of its remit, but also

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[9] *Id.*, at 1.

[10] Kevin Morgan & Ellis Roberts, *The Democratic Deficit: A Guide to Quangoland*, Papers in Planning Research, No. 144, School of City and Regional Planning, Cardiff University, 1993. See also Colin H. Williams, "Development, Dependency and the Democratic Deficit", Plenary Address to the Fifth International Conference on Minority Languages held at Cardiff University in July 1993 and published in (1994) 15(2-3) Journal of Multilingual and Multicultural Development 101.

[11] *Supra*, note 8, at 3.

because its operating style ensures that formal meetings are held in public in various venues throughout Wales. These two-day sessions regularly include formal presentations by the Welsh Language Board and its partners together with local authority representatives. But they also encourage question and answer sessions, the formation of a dialogue, the laying down of trust so essential to the implementation of language plans. The distinctive feature here is that both Welsh Language Board board members and responsible officers together answer questions from civil society. Thus, the officers are identified, known, invite recommendations and construct dialogues with interested parties and agencies. This is a rare occurrence within the conventional civil service style of operation and one which allows the Welsh Language Board to claim that it is part both of the delivery of service and the discussions within civil society.

On 2 August 2004 the Permanent Secretary wrote to the remaining quangos, including the Welsh Language Board, to inform them of the basis on which the Wales Assembly Government would decide whether they, too, would be integrated. While there was a general presumption in favour of incorporation, the letter set out three exceptions, namely:

- Where bodies audit or regulate Assembly Government business or are quasi-judicial.
- Where bodies take decisions which are better kept at arm's length from the Government.
- Where such bodies undertake functions or exercise professional judgements which are clearly non-governmental in character.[12]

Kevin Morgan's prediction is that "incorporating the cultural quangos on top of the economic quangos would amount to an unprecedented centralisation of power within government and, equally disquieting, a politicisation of civil society that is unique in the European Union. Even the Welsh Local Government Association, an avid supporter of culling the quangos, recognises that further centralisation of public functions

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[12] Jon Shortridge, *ASPB Reform: Circular Letter to Chief Executive Officers, Assembly Sponsored Public Bodies* (2 August 2004).

within the Wales Assembly Government could lead to 'an unhealthy concentration of power and a weakening of accountability'."[13]

B. The Legislative Context

Specialists have argued that there are no legal problems in the Assembly transferring all the Welsh Language Board's function to the Assembly under section 28 of the *Government of Wales Act*. New primary legislation to effect this transfer would not be necessary. Neither would there be any need to enact new legislation to restructure the Board's membership, for the Assembly has this power under section 28(5) of the 1998 Act. Thus, in principle, it is possible for the Assembly using powers of section 28 of the *Government of Wales Act 1998* either to transfer all the Board's functions to the Assembly and to repeal the provisions of Schedule 1 to the *Welsh Language Act 1993* relating to the constitution of the Board and its staff or, if the Assembly so decides, to transfer some of the Board's functions to the Assembly and amend the constitution of the Board.

What is more problematic is the notion that a transfer of responsibilities for language schemes, especially the Wales Assembly Government's own language scheme, from the Welsh Language Board to the National Assembly, would not engender confusion. This relates to instances, under sections 10(2) and 10(3) of the *Welsh Language Act 1993* where the Assembly would be preparing, for its own purposes, drafts of statutory regulations and then either recommending or amending them prior to laying them before Parliament. In addition, under certain circumstances, the Assembly would adjudicate in instances wherein it was itself a named party. For example, under section 14 of the *Welsh Language Act*, where neither the Welsh Language Board nor other public bodies can agree on the contents of language schemes, the Assembly can resolve the issue and determine the outcome. Should the Assembly incorporate the responsibilities of the Welsh Language Board, then it would be implicated directly within its own determining cases.

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[13] Welsh Local Governement Association, *The Role of Local Authorities in a Post Quango Wales*, Cardiff, Welsh Local Government Association, 2004.

C. The Language Policy Context

The relationship between the Welsh Language Board and the National Assembly has been discussed at each constitutional revision. Prior to devolution in 1998, I asked to what extent, and in what ways will/should the Assembly take over the role of the Welsh Language Board? How could its functions be better realized in a possibly different, more democratic, organizational format? Would we need a dedicated, specialist body to continue to achieve this, or could it be done by a committee of the Assembly working directly with the civil service? Should the Assembly include a language planning centre in addition to a language standardization centre? Should the Assembly consider the need to establish the office of a language ombudsman to oversee/audit the operation of the *Welsh Language Act*, à la Canada?[14]

At that time, I argued that there was a crucial need for a dedicated specialist body responsible for language matters, accountable to the Assembly, but not a committee of the Assembly. I cautioned that should a transfer of responsibilities happen, it would be possible that the Assembly *en masse* would be less committed to the language than was the Welsh Language Board. If this was likely, then there was little merit in initiating a transfer of responsibilities. Far better, to strengthen the co-ordinating function of the Language Board which would militate against the severe fragmentation which had bedevilled previous efforts at language promotion.

I also queried which organization within the Assembly would be responsible for the development of language policy? I asked which internal body would consider appeals in relation to the content of language schemes and make a decision to request judicial advice to take action against a public body?

The strengths of the Language Board on the eve of devolution 1998-1999 lay in its ability to plan strategically, its partnership links with statutory and voluntary grassroots bodies and its ability to call on expert knowledge from among its ranks. Too great a proximity to the day-to-day business of the Assembly would detract from these strengths. As long as clear lines of accountability existed between the Welsh Lan-

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[14] Colin H. Williams, "Legislation and Empowerment: A Welsh Drama in Three Acts", Proceedings of the International Conference on Language Legislation organized by the Comhdháil Náisiúnta na Gaeilge in Dublin (14-17 October 1998).

guage Board and the Assembly, it should remain "at arm's length." The Board should be answerable directly to the First Secretary/Prime Minister and would work in close liaison with the Minister responsible for the Welsh language and attendant subject committees.

I also rehearsed the counter to this position, which would involve criticizing such special pleading and direct reporting to the First Secretary/Prime Minister and a subject committee by arguing that a commitment to democratic accountability would not brook Welsh language policies and grants being handled outside the democratic framework. There would be a case for a special body other than the staff of the Assembly having a language standardization role, but the rather conservative civil service/quango-like arrangement for the Language Board would need to be brought into line with the rest of Assembly matters some time in the future.

With regard to the approval of language schemes, in as much as these are agreed between the Language Board and individual bodies, it was difficult to foresee at that time where the Assembly would usefully play a role. The Assembly's political role is to identify the broad principles of Welsh language policy, to decide how far to move along the spectrum from voluntarism to compulsory bilingualism, to identify priorities such as promotion, access or consolidation, and to integrate the interests of Welsh into all spheres of life in line with current holistic views on language planning.

A key question was whether or not the Assembly would have the authority to grant to the Welsh Language Board the right and the duty to monitor Assembly deliberations and actions with regard to the Welsh language. Conversely, should the Assembly operate a co-equal bilingual policy, it could be argued that there would be little need for a separate Welsh language and culture subject committee. However, I cautioned that operating a bilingual policy is one thing, having a watching brief for the fortunes of Welsh culture is quite another, and the two should not be conflated. Thus, I concluded that there is a *prima facie* justification for a Welsh Language and Cultural Committee separate from, but directing the activities of the Language Board, as well as determining national language/cultural policy.

It was also doubtful whether the Assembly had the authority under clauses 28, 29 and 33 of the Act to establish the office of a language ombudsman who could intervene in disputes over the language schemes of public authorities. This was clearly a significant omission from the

1993 Bill, as the very fact of agreed language schemes begs the question of assuring compliance.

Current wisdom in 1998 suggested that, notwithstanding the success of a Language Ombudsman in Canada, Wales was unprepared for yet another agent of language implementation. There was scope for including elements of language-related grievance and compliance within the remit of the current Ombudsman or there could be scope for devolving some of these functions to a strengthened Language Board. But I warned that the idea of a language ombudsman should not be rejected, and that once a recognizable system for dealing with language schemes was put in place, we should return to consider the establishment of a Language Ombudsman.[15]

Today we face very similar questions, albeit within the context of an Assembly arrangement which is better understood and more sympathetic to the mainstreaming of Welsh language matters both as a policy object and as a medium of governance. Within the coming months there will be a public debate on these issues, the chief lines of which are likely to be that keeping the Welsh Language Board at arm's length from the Assembly helps in defusing the language question either as a party political matter or as a conflict-generating issue. The consensus-building and "de-politicization" argument, so beloved of establishment figures in Wales, does have considerable merit at a functional/administrative level, but does not mask the cleavages which characterize Welsh language politics. A second plank of the argument is that in order to develop a bilingual society in accordance with the "the doctrine of plenary inclusion"[16] an impartial agency, which can be guaranteed its relative independence of action, regardless of which political party (parties), rules in Cardiff Bay, is required. Clearly, the Board would continue to operate within the broad strategy agreed by the Cabinet, the responsible Minister and senior management of the Board. However, by invoking a certain impartiality there is a sense in which the Board could claim to be "owned" and to be "responsive" to a wide array of partners, clients and the general public, and not be too overly identified with the ideology and practical policy deliberations of a single party. Finally, there is the management consideration that transferring the responsibilities and staff

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[15] *Id.*

[16] *Supra*, note 6.

of the Welsh Language Board into the machinery of government is one step, fully integrating its resultant activities, including its statutory duty to liaise with all public bodies, including the Assembly and the civil service, through the medium of Welsh, is quite a different step. Were it to happen, it would be the most effective test to date of the ability of the civil service to operationalize its commitment to mainstream Welsh within its ranks.

IV. Conclusion

Etablished in an unusual set of circumstances in 1989, the Welsh Language Board has evolved and matured as an effective instrument of language promotion, planning and policy. It has done so by becoming a professional, para-public institution, an arm of government backed by UK parliamentary legislation, a champion of radical and innovative measures, and a critic of many aspects of Welsh public and commercial life. It has, in turn, been severely criticized at various junctures for its grant allocation decisions, its prioritizing of some cultural and youth-rated activities over others and its regulatory behaviour vis-à-vis some public institutions. It has also been accused of being naïve in advancing neo-liberal presumptions regarding its capacity to intervene in the market-place, to influence the language choice and child-rearing practices of parents and for its quango-like relationship with government. However, because of its relative autonomy of action, it has forged a wide variety of enabling partnerships, at one step removed from the day-to-day concerns of government, which has given it its own legitimacy as the authoritative language planning body. In a small country like Wales, the style of intervention becomes almost as critical as the content of reform. Consequently, the largely constructive, consensual approach of the Welsh Language Board, especially when dealing with large organizations that do not have an obvious self-interest in promoting bilingualism, has paid off.

Without doubt, the establishment of the National Assembly has both strengthened the Welsh Language Board and made more urgent its deliberations in terms of constructing a bilingual society. However, there is certain political imperative for the Assembly government to incorporate the Board as part of a routine department of state. Several features may be lost in such incorporation. The most critical is the loss of an authoritative body exercising an overview function and undertaking the

strategic language planning of Welsh. The Board's flexibility of action, the specialist input of the Board's members and the close working relationship with a wide variety of bodies in Welsh civil society, who recognize that while the Board has authority, it is not necessarily conceived to be the public face of the Labour Government on language matters. Therein lies the burden for the government, for they wish to further control and influence the contours of the language policy landscape. But this is not necessarily the same thing as planning for the promotion of the Welsh language within an increasingly bilingual Wales.

Other considerations relate to the remit of the Board outwith Wales in terms of its jurisdiction in other parts of the UK. Public bodies and crown corporations who have dealings with Wales, but who are located elsewhere in the UK, come under the Board's jurisdiction. In that sense, the Board is relatively unique within British public life, but this relationship will have to be recalibrated if and when the Board is absorbed into the Wales Assembly Government. This raises a further question about the new arrangements because, at present, no new independent regulatory body has been proposed to undertake the Board's statutory functions in this field. This will have implications for both the accountability of Wales Assembly Government and concerning its role elsewhere within the British system. At the very least, it could lead to interesting constitutional turf wars between the various jurisdictions.