

ETHNIC GROUPS AND LANGUAGE RIGHTS

COMPARATIVE STUDIES ON GOVERNMENTS
AND NON-DOMINANT ETHNIC GROUPS IN
EUROPE, 1850–1940

Volume III

Edited by
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in collaboration with
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5 Rhaeto–Romansh in Switzerland up to 1940

BERNARD CATHOMAS

Introduction

Linguistic, Geographical and Statistical Background

The term 'Rhaeto–Romanic' encompasses three linguistic groups – geographically separated – in the eastern Alps:

- The Romansh language of the Swiss canton of the Grisons (some 50 000 speakers in 1980).
- The Ladin language of the Dolomities spoken by some 30 000 people in the valleys around the Sella massif in the Italian provinces of Bolzano, Trento and Belluno.
- The language of Friuli in the north-eastern part of Italy (some 500 000 speakers).

Since the historical evolution and in particular the legal situation of the language in these three language groups – being comparatively separated in geographical terms and belonging to two states – are fundamentally different, the following essay deals exclusively with Rhaeto–Romansh (as spoken in the Swiss canton of the Grisons). The federal census of 1980 showed that 51 128 people still spoke this language. Of these, 36 017 lived in the Grisons (30 213 in the traditional Romansh speaking area). In conformity with the definition used today this area comprises those political communities that revealed a Romansh speaking majority on the occasion of the first federal census of 1860. In this area, comprising 113 political communities, the Rhaeto–Romans then represented more than 90 per cent of the population.

The Romansh language of the Grisons is divided into five written varieties: Sursilvan, spoken in the Surselva along the Vorderrhein; Sutsilvan in the Hinterrhein valley; Surmiran in the central Grisons; Puter in the Upper Engadine; and Vallader in the Lower Engadine and in the Müstair valley. The evolution of the Rhaeto–Romanic population between 1850 and 1940 is demonstrated in Table 5.1.

Table 5.1: The Rhaeto-Romanic population, 1850–1940

Year	Canton of the Grisons		Switzerland	
	number	%	number	%
1835*	46 994	49.0	no data	–
1850†	42 439	47.2	–	–
1880	37 794	39.8	38 705	1.4
1900	36 472	34.9	38 651	1.2
1920	39 127	32.6	42 940	1.1
1941	40 128	31.3	46 456	1.1

Notes

* For 1835 compare Röder and von Tschärner (1838), p. 314. From 1850 the numbers are based on the federal censuses. The census of 1850 shows only the language generally used in each political community. Hence the 42 439 people represent in reality the total population of the then official Romansh-speaking area, inclusive of people possibly speaking other languages. The language statistics of 1860 and 1870 are based on 'households', not on 'individuals'.

† Expressed in *absolute* numbers, the Rhaeto-Romanic population has increased slightly since 1880. Proportionately (in other words, in proportion to the total population), however, a regression must be recorded since the non-Romansh speaking population in the canton of the Grisons and in Switzerland has increased.

Evolution up to 1850*History of a Continual Retreat*

The history of the Rhaeto-Romanic language and culture is the history of a continual retreat. In the fifth and sixth centuries AD – when the Rhaeto-Romanic culture was at its height – it covered an area reaching from the upper Danube to the Adriatic Sea, thus including the eastern part of Switzerland, the Vorarlberg, parts of the Tyrol and the present Grisons. The advance of the Alemans and Bajuvarians (Bavarians) from the north led to germanisation, but the latter was also brought about by the immigration of 'Walser' people from the Wallis (Valais) in the thirteenth and fourteenth centuries. During the Middle Ages the whole of the canton of the Grisons as we know it today was still a Romansh speaking area, but in the sixteenth century its capital, Chur, plus the north eastern territories as well as some remote valleys (Walser settlements) had already become German speaking. The Reformation and the Counter-Reformation encouraged the first publications in Romansh. However, various regions developed their own written idiom, the aftereffect of which is

still felt today and which has led to the five different Romansh idioms still being in written use in the Grisons today. The Reformation and the Counter-Reformation – aided by developments in the socio-economic situation – also led to a stabilisation of the linguistic boundaries up to the nineteenth century. Around 1800 the Rhaeto-Romansh still represented the majority of the population in the area of the canton of the Grisons but as early as 1860 the German speaking element had gained a relative and in 1920 an absolute majority. Starting in 1860 and recorded in the following censuses the Rhaeto-Romanic element consistently lost its majority in several political communities. The once relatively compact Romansh speaking area from the Bündner Oberland (the River Rhine area) via the central Grisons (Hinterrhein, Julia and Albula area) to the Engadine and Müstair valley (the Inn and Rom area) began to fall to pieces. The fact that the territories of the central Grisons were particularly affected by germanisation accelerated this process.

The reasons for this renewed trend towards the use of the German language, developing from the middle of the nineteenth century onwards, can be listed as follows:

- the increasing mobility of society at the time as a result of transit and tourist traffic (immigration of labourers and guests speaking other languages, completion of the Alpine road system and, from the end of the nineteenth century onwards, the construction of the Rhaetian railways);
- the increasing migration from the peripheral regions to the thriving industrial centres of the Swiss midlands and abroad;
- the declining linguistic consciousness in the first half of the nineteenth century, due to the lack of presence of the Rhaeto-Romanic language in public life and society and to the legal status of Romansh;
- the entry of the Grisons into the Swiss Confederation in 1803 and the orientation of the Romansh speaking area towards the Alemannic/German speaking north for economic reasons.

The period of time here under discussion – 1850 until 1940 – therefore represents a decisive phase, which brought about important changes in the linguistic field and on various levels.

Chancery and Legal Language in the Grisons before 1800

The Rhaeto-Romanic language has never directly been suppressed by executive power but the pragmatic mountain dwellers recognised and employed German – a language of European significance – as a means of communication with the supreme State of the 'Three

Leagues' from an early stage. From the middle of the fifteenth century onwards the Free State of the Three Leagues comprised the 'Gotteshausbund' (The League of the House of God) (established in 1367), the 'Graue Bund' (Grey League) (established in 1424) and the 'Zehngerichtebund' (League of ten Shires) (established in 1436). This Free State took the place of the medieval feudal system and lasted until 1799, when the Grisons were united with the Helvetic Republic. The Rhaeto-Romanic which was not standardised as a written language until the sixteenth and the seventeenth centuries and which from the very beginning had different varieties, did not gain acceptance as the overall legal and official language despite the fact that at the time the Romanic population was in the majority. However, it was employed in the Romansh speaking area for neighbourhood meetings, legal proceedings and in the local administration. At the end of the sixteenth and the beginning of the seventeenth centuries it finally superseded Latin. This triumph of the native regional languages occurred not only in relation to the civil and criminal statute law but also to village regulations, proof of which is furnished in *Rechtsquellen des Kantons Graubünden* (Reference Book for the Application of the Law of the Canton of the Grisons). However, in the state as a whole as well as in the different leagues, German continued to be employed as the official language throughout.

Awakening after the Ancien Régime

It was not until 1794 that, at a meeting of the Three Leagues, it was proclaimed that henceforth German, Italian and two varieties of the Rhaeto-Romanic language were to be the four languages recognised by their republic. It was decreed that the leagues were to address their writs and final decrees to the Romansh speaking political communities in their respective languages. In 1803 the legislative assembly ('Grosser Rat') of the 'newborn' canton – now being a member of the Swiss Confederation – decreed that at the beginning of each session an interpreter was to be appointed. Upon request he was to translate speeches into the language of other deputies. All members of the assembly were free to employ their mother tongue. Official decrees were also to be sent to the political communities concerned in either Romansh or Italian. Thus the *fundamental equality of status* of the three cantonal languages in the new canton of the Grisons was legally written down. In *practice*, however, German would appear to have had a clear dominance because the Rhaeto-Romanic political exponents were able to speak German already at that time, whereas the German speaking partners probably did not speak any Romansh. In 1825 the cantonal parliament decreed that all bills and motions were to be sent to the Rhaeto-Romans in the

Oberland and in the central Grisons in Romansh but to the Rhaeto-Romans in the Engadine in Italian.

Despite formal recognition in the first half of the nineteenth century the enduring struggle for equal acceptance of the languages continued in practice. In 1841 the deputies for the Italian speaking Mesolcina and Calanca valley were instructed to request that

all official notifications to be addressed to the courts and the political communities there shall henceforth be written in the Italian language. With regard to that the assembly decided to reject once and for all the request presently made by the delegates from Misox and Calanca as well as any similar requests that could be made in the future. [Parliamentary minutes of 14 July 1841]

In 1842 the same deputies renewed their request. The response of the assembly was to refer to complications and the extra work emanating from the request, 'especially when considering that all the Romansh speaking communities might use this same right, too – a right to which they are also entitled'. Of interest in these minutes is the reference regarding the status of the Romansh language in the parliamentary minutes of 30 June 1842:

The Romansh language is not a national, but a mere provincial language with various written idioms and, besides, the Romansh speaking communities being more and more willing to make themselves familiar with the German language, the same degree of necessity for making concessions would not apply to them.

Yet the legislative assembly then resolved that 'all laws, bills and motions, general resolutions and decrees shall be translated into the Italian and Romansh languages for the political communities in question'. But in 1848 the parliament returned to this resolution and reduced it so that only the bills and motions (instead of all resolutions) going from the cantonal parliament to the political communities were to be translated into Oberland Romansh (but again not into Engadine Romansh) in connection with which only the text written in German continued to be regarded as legal and official, as was recorded in the parliamentary minutes of 30 June 1842 and of 31 July 1848.

Summing up, it may therefore be said that up to 1850 – in spite of its formal recognition – for economic and political reasons the Rhaeto-Romanic language in practice continually met with difficulties. Instead of encouraging translations the authorities did their best to further the knowledge of German on the part of the Romansh speaking population to the degree where the Romansh language would no longer need to be considered by the administration. Thus

the ambition of the authorities was to assimilate the Romansh speaking people, to have them absorbed by the German language, rather than to work for the survival of their language by giving it recognition within the administrative domain and the judicial system. The extension of the compulsory elementary school system contributed greatly to the spreading of German. In spite of that in 1848 the deputies from the Oberland and the Lower Engadine still maintained their view that translation would still be necessary for a general understanding.

On the Swiss Federal Level before 1850

On the federal level the Rhaeto-Romanic language was in practical terms of no importance before 1850, since up to 1799 the Grisons represented a separate free state and because the ties between the Grisons and the federal government were only of a loose nature from 1800 until 1848 (despite the entry of the Grisons into the Swiss Confederation in 1803). Following the union of the Grisons with the Helvetic Republic in 1799, Helvetic government officials had instructed the provisional government of the canton of Rhaetia (the new name given by the Helvetic Republic in imitation of the Roman province of 'Rhaetia') to translate its proclamations into Italian and Romansh and to send them to all political communities. The drafts of 1832 and 1833 for the federal constitution do not contain any regulations with regard to the state languages of the confederation. As late as 1847 the commission appointed to draft a new constitution still did not see fit to include articles dealing with the issue of languages. It was only when the federal *Tagsatzung* (meeting of the representatives of the cantons) discussed the draft in 1847 that the delegates of the Canton de Vaud proposed that the following regulation be included in the constitution: 'Les trois langues parlées en Suisse, l'allemand, le français et l'italien, sont langues nationales' (the three languages spoken in Switzerland, German, French and Italian, are national languages). As a result the following draft wording of the article on languages was approved by the *Tagsatzung*: 'The three main languages used within the Swiss Confederation are declared to be the official ones and the Federal Chancery shall make arrangements for the final decrees, the laws and resolutions of the federal authorities to be drawn up – at the expense of the Swiss Confederation – in the German and French languages'. Hence Italian as a written language was not always compulsory and only the text written in German was legally binding. On 27 July 1848, as proposed by the editorial committee, it was, however, unanimously resolved that the following Article 109 was to become constitutional law:

'Switzerland's three main languages – German, French and Italian – are the national languages of the Confederation'.

How is the absence of the Rhaeto-Romanic language in the federal constitution of that time to be explained? The message of the Federal Council to the federal legislative assemblies with regard to the recognition of Rhaeto-Romanic as a national language given in a document dated 1 June 1937, contained the following explanation:

The question of recognising the Rhaeto-Romanic language in a like manner did not come up for discussion; neither on the occasion of these debates [1847–8] nor 25 years later when the articles of languages were retained unchanged (as article 116) in the revised constitution of 1874. But while the original motion proposed by the delegates from the Pays de Vaud simply spoke of the three languages spoken in Switzerland, the final wording of the article refers to Switzerland's three *main* languages. Does not this solution imply that the legislature was quite aware of the existence of a fourth Swiss language, that is of Rhaeto-Romanic? The legislature's refraining from declaring this fourth language to be also a national language is obviously to be set down to reasons of a practical nature. Undoubtedly even then the legislature linked the term 'national language' with the conception of 'official language' or 'state language'. This term – for practical reasons (to avoid expansion of the public administration and of government expenditure) – the legislature wanted to restrict to the country's *main* languages: However, by not applying the term 'national languages', in other words 'state languages', of the Confederation to all but only to the *main* languages of the country, the existence of a further Swiss language was strictly speaking, confirmed.

The Legal Position of the Rhaeto-Romanic Language in the Grisons between 1850 and 1940

Sovereignty of Languages Lies with Political Districts and Communities

In 1848 the new Swiss federal constitution was adopted in the Grisons as well as elsewhere by a large majority. Between 1848 and 1854 its community based administration was restructured to fit into the centralised canton system. Hitherto sovereignty had been exercised by the local legal districts. The new constitution of 1854 transferred sovereignty to the people as a whole, shifting the various competences from the local legal districts to the canton. During the same period there was also a new division of the districts in the canton of the Grisons. *De facto*, linguistic sovereignty remained with the districts and communities, which within their own boundaries were entitled to govern language use themselves. In the Rhaeto-Romanic communities, Rhaeto-Romanic was the official language throughout, with the then few exceptions of translations for non-

Romansh speaking addressees. Within the canton the attempts to suppress altogether or in part the translations into the Romansh language continued; even though according to their deputies recorded in the parliamentary minutes of 12 June 1850 the people in the Romansh and Italian speaking regions could not read drafts of any bill written in German. Article 12 of the *Rules of Parliamentary Procedure* of the cantonal parliament of 1854 thus read, 'Each member of the cantonal parliament is at liberty to deliver his votes in any of the three state languages'. Printing and forwarding of the voting papers were governed by the following rule laid down in the cantonal parliament minutes on 21 June 1854: 'Papers translated into Italian are to be sent to the Italian speaking communities as well as to those of the Upper and Lower Engadine, of the Müstair valley, and to the communities of Bergün, Bivio and Marmels; to the Romansh speaking communities of the Oberland, papers are to be sent in their own idiom'. The same rule had already come into force under the Rules of 1820 and 1834. The text written in German was the only authentic, legally binding one and the latter had to be enclosed (as the original text) with the respective translations to be sent to the Rhaeto-Romanic and Italian speaking communities. Even in the cantonal court German had a privileged position. As before, official documents written in a language other than German had to be submitted together with an accurate German translation according to the 1816 law on the supreme appeal procedure in civil matters. A particularly flagrant case of linguistic suppression occurred in connection with a cantonal act of parliament of 1851 (*Gesetz über die Einteilung des Kantons Graubünden in Bezirke und Kreise*), leading to the systematic and official replacement of the Rhaeto-Romanic place-names by German ones. It was not until 1943 – following the recognition of Romansh as a national language in the year 1938 – that the federal council sanctioned the return of numerous Romansh places to their original place-name (Decision of the Swiss Federal Council).

The 'Rhaeto-Romanic Renaissance'

In the second half of the nineteenth century a genuine revival began in the Romansh areas, referred to today as the 'Rhaeto-Romanic Renaissance'. Poets, philologists and politicians resisted the further advance of German at state, school and social levels by making public appeals or speeches and petitions. Societies for promoting the native tongue were set up, yearbooks, calendars and school books were published, and the old sources of the Romansh language were rediscovered and cultural values collected. One motto was taken from a poem by G.C. Muoth (1844–1906) and read 'Stai si, defenda, Romontsch, tiu vegl lungatg, risguard pretenda per tiu patratg!'

(Stand up, Romansch, defend your old language, demand your mentality, be respected!). Another was an exhortation by Peider Linsel (1863–1943) 'Ni Talians ni Tudaischs, Rumantschs vulains restar!' (We want to be neither Germans nor Italians, we want to stay Rhaeto-Romans). Therewith Peider Linsel defied attempts made by Italian philologists (Giorgio del Vecchio, Carlo Salvione, Carlo Battisti) to question the independent Latin identity of the Grisons and the self-sustaining language situation of the Rhaeto-Romanic language. Their new consciousness and the mobilisation of the Rhaeto-Romanic people in support of a self-sustaining language were ample encouragement to set up societies for promoting the native tongue and – in 1919 – the '*Lia rumantscha*' (Romansh League) as an umbrella organisation for the Rhaeto-Romanic linguistic movement. By means of petitions and motions this institution then decisively influenced the subsequent legal position of the Romansh language, both on the federal as well as on the cantonal level. From the start its main goals were to awaken and promote the linguistic responsibility; the external advocacy of the interests of the Rhaeto-Romanic minority at the cantonal as well as at the federal level; better recognition of Romansh at state, school and church levels; reromanisation of inscriptions, place-names and so on which had been germanised by state decrees in the nineteenth century.

The Constitutions of the Grisons

The new 1854 constitution of the Grisons – like the one of 1820 – did not include any legal regulations of a linguistic nature. The 1880 constitution of the Grisons canton, however, included the following new Article 50: 'The status of state language of the three languages of the canton is guaranteed'. The same regulation was included in Article 46 of the 1892–4 constitution. Final decrees emanating from the cantonal parliament and drafts of a bill were always translated into and printed in Oberland Romansh. While such texts did have official status only the text written in German represented the legally authentic wording. The authenticity of Rhaeto-Romanic law-texts was restricted to the legislation of the Rhaeto-Romanic districts and communities. Petitions and letters written in the Rhaeto-Romanic language were accepted by the executive and the administration but were answered in German. With regard to legal proceedings there was one legal regulation of a linguistic nature to be found in Article 14 of the 1858 procedural rules of the cantonal court: 'The language of the courts of justice is German. Exceptions to this rule require special permission granted by the court.' However, the courts in the Romansh speaking parts and also the cantonal court accepted Romansh documents and petitions. The translation costs, and in

criminal cases possibly the cost of an interpreter, were, however, the responsibility of the parties. No Romansh texts are to be found in the volumes of the official code of laws between 1860 and 1950.

A contemporary reflection on the position of the Rhaeto-Romanic language in the Grisons can be gained from the reply made by the Chancellor of the Grisons to the 'Légation de Suisse à Vienne' (Cantonal Archives of the Grisons, II 5 a 1). The Chancellor confirmed that a code of laws in Romansh did not exist; that the government and the cantonal administration themselves did not correspond in Romansh (since this language, unlike Italian, was not a cultural language but merely a language that had disintegrated into various dialects!); that only those laws and decrees that were to be submitted to a plebiscite were translated into Oberland Romansh, though the communities and districts were at liberty to publish their decrees and announcements in the official gazette in such languages as they considered to be appropriate. In the legislative assembly and in the cantonal court speeches could be made in all languages. While there would continue to be numerous petitions to the cantonal authorities in Romansh, there would, however, be no law and no decree governing the languages and their use within the canton.

A New Linguistic Consciousness

In the first decades of the twentieth century, under the influence of the supporters of the 'Rhaeto-Romanic Renaissance', essential progress towards a better recognition of Romansh was made in various fields, especially in the educational system of the Grisons. For the Romansh people, however, it remained an absolute necessity to learn German, the main language of the canton. This was for economic and probably also for political reasons.

The growing Rhaeto-Romanic self-awareness and the efforts to make the people conscious of their legal position within the state led to various motions in the Grisons canton between 1900 and 1938. In general, however, they had little impact at the legislative level. According to a resolution passed by the Grisons government in 1922, the Rhaeto-Romanic language (alternately Sursilvan and Ladin) was to be used only on voting papers. Also the 'Regulations concerning the language to be employed in connection with geographical place-names' (1934) stipulated that Rhaeto-Romanic representatives should be on the cantonal nomenclature committee. For a long time, however, the equality of status of the three cantonal state languages – as firmly established in the constitution – was consistently practised neither in parliament and government nor on the occasion of legal proceedings. German remained the main language in the Grisons while Italian, and to an even greater degree Romansh, remained of

marginal significance at the various levels of public activities in the canton. The 1937 procedural rules of the cantonal parliament still stipulated that as a matter of principle the German language should be employed for the swearing-in of its members and that the main language for the debates (and for the minutes) should be German. According to Article 33 of the procedure rules, however, 'each member is entitled to request translation of motions proposed into the language that he can understand'.

On the Way to the Status of a Swiss 'National Language'

Despite this not very convincing way of achieving linguistic equality in the Grisons themselves, and in spite of the deficiencies in recognition of Rhaeto-Romanic at the cantonal level, the authorities of the canton stood solidly behind the claim for recognition of Rhaeto-Romanic as a Swiss national language in the 1930s. From 1930 onwards the demand emerged for the revision of the federal constitution to give Rhaeto-Romanic recognition as a national language. In 1934 a students' meeting passed a resolution relating to this and in the course of the same year a member of the cantonal parliament representing the Oberland proposed the following motion:

The cantonal parliament, representing the people of the Grisons, instructs the government to submit emphatically to the federal authorities the desire and the wish of the Romansh speaking people for their language – as well as German, French and Italian – to be declared and recognised as a national language.

The member proposing the motion deliberately refrained from demanding the total employment of Romansh as an official language of the Confederation and left it to the executive to settle the degree of desired actual application of Romansh in federal matters with the directorate of the *Lia rumantscha*. During the autumn session of the cantonal parliament of 1934 the motion was carried unanimously. On 21 September 1935 the executive of the canton of the Grisons submitted to the Federal Council a well documented petition made up of the following claims:

- 'The constitution is to be modified and Rhaeto-Romanic is thus to be recognised as the fourth *national language*'.
- 'We are agreeable – in agreement with the Romansh societies and in accordance with the foregoing observations – to declaring as the *official* languages of the country German, French and Italian only, taking all the consequences possibly ensuing from this.'

- 'In return, the Swiss Confederation should be prepared to continue to translate certain fundamental laws and the nomenclature should duly allow for this with regard to inscriptions and so on. Relative guiding principles shall be the subject matter of a separate decree'.
- 'Where Romansh documents are submitted in connection with proceedings pending before administrative or judicial courts of the Confederation, the costs for any necessary translation shall not weigh heavily on the party'.
- 'It is not necessary that a particular idiom or its written form should be declared a national language. In case of doubt, the Federal Council, after consulting the Grisons government, shall decide which of the main idioms is to be chosen for a particular publication, translation, inscription and so on'.
- 'The Swiss Confederation is prepared to realise the funds necessary to have the various dictionaries and the dialect dictionary printed successively as soon as they become ready for publication. The Confederation will continue to effectively assist the *Lia rumantscha* in its efforts to conserve and further the Romansh language.' [Message of the Federal Council on the recognition of Rhaeto-Romanic as a national language, addressed to the federal legislative assemblies, 1 June 1937]

The Grisons canton had thereby delegated the language issue to Berne, in other words to the federal level. The petition submitted to the Swiss Confederation by the Grisons was not primarily comprised of material demands, be they of a direct or indirect nature, but with non-material imperatives: the fundamental equality of status of Rhaeto-Romanic with Switzerland's other languages. The determining factor behind the petition was the conviction that such a fundamental recognition would facilitate the struggle for survival fought on behalf of the endangered Rhaeto-Romanic language.

The Rhaeto-Romanic Language on the Federal Level between 1850 and 1940

Friendly Gestures

Although the 1848 Swiss federal constitution did not explicitly mention the Rhaeto-Romanic language – the revised 1874 constitution did not make mention of it either – the Confederation from the nineteenth century on repeatedly made allowances for the demands received from the Rhaeto-Romanic bodies and the Grisons government with regard to recognition of the language. In 1872 and 1874 the

draft texts for the revision of the constitution were translated into two Romansh versions (Sursilvan and Ladin) at the expense of the Confederation and circulated. In 1876, however, the Federal Council, using Article 116 of the 1874 constitution, rejected a petition submitted by the Grisons that requested that all federal laws to be subject to a plebiscite should be translated into Romansh Sursilvan. However, the translation of various basic legal texts into Romansh was subsidised by the Confederation; for example, the federal law on the obligations of citizenship, the prosecution and bankruptcy laws and parts of the Swiss code of civil law. The Confederation also subsidised the editing of a Rhaeto-Romanic anthology, the collecting of material for the *Dicziunari Rumantsch Grischun* (Rhaeto-Romanic dialect dictionary) and the linguistic planning performed by the umbrella organisation *Lia rumantscha* from 1919 onwards.

Despite these occasional gestures Rhaeto-Romanic was not recognised as an official language and remained outside the Confederation's legal and administrative authorities. The Rhaeto-Romans were (and in part still are today) obliged to read the federal laws and resolutions in German. To this day the Rhaeto-Romanic language has not been admitted to the federal parliament. The same applies to the various administrative branches and to the administering of federal law in the very areas where Romansh is spoken. In those areas public offices and concerns like registry offices, the land register, prosecution for non-payment of debts, bankruptcy law and the commercial register-general, all of which are governed by federal law, are administered in German. The numerous bills, written in German, emanating from these authorities automatically lead to an ever-increasing use of the German language and thus to a creeping germanisation. This evolution became particularly evident in connection with proper names, which, when given on previously printed documents (the latter being in German), were systematically germanised by diligent officials (having been instructed accordingly) in the registry offices, military authorities and so. Thus a Rhaeto-Romanic Gion Flurin became a Johann Florian and Gion Bistgaun became Johann Sebastian and so on. In 1986, however, a federal commission of experts began work on a revision of Article 116 FC (Federal Constitution) with the object of obtaining recognition of Rhaeto-Romanic at least as a partial official language of the Confederation.

Since Rhaeto-Romanic is not an official language, parliament still does not admit it to legislative proceedings. Even in the 1920s this deficiency led to a motion in the assembly representing the cantons, requesting voting papers in Rhaeto-Romanic as is recorded on page 47 of the minutes of the federal legislative assemblies of 1928. However, the voting papers alone contributed little towards the

participation of Romansh in the legislation since the Rhaeto-Romans, now as ever, were not legally allowed to employ their mother tongue when making use of such essential rights as constitutional initiatives, referenda and so on. During discussions at and in reports of the federal court, one of the three official languages is also employed. It is, however, worth noting the following remarkable passage from a Federal Court report of 1885:

Rhaeto-Romanic, although not a national [official] language of the Confederation, is nevertheless a state language, the existence of which in a considerable part of the Grisons canton cannot be ignored. Though the Romansh population is not entitled to be addressed by the federal authorities in Romansh but, based on Article 116 FC, has to put up with the fact that the Confederation uses one of the three national [official] languages when addressing the Rhaeto-Romans, the federal authorities cannot possibly ignore the Romansh language to the extent of refusing to receive Romansh documents, especially in judicial matters. It would not do to make the party belonging to the Romansh speaking areas employ a language other than its mother tongue before entering into a constitutional complaint or an appeal in civil matters (a condition possibly in addition to others). Access to the courts would thereby be made more difficult and the constitutional guarantees of the Articles 110 and 113 FC prejudiced considerably. A language being employed on territory of the Swiss Confederation as a living state language, taught at school, spoken in the court room and on the pulpit, and verified in records certainly bears in itself a right of having access also to the authorities and especially to the courts of the Swiss Confederation.

National Language – but not Official Language

In the 1920s and early 1930s the *Lia rumantscha* in particular, helped by the spirit of the times, did pioneering work in gaining recognition of Rhaeto-Romanic as a state language. As mentioned above, the Grisons government and the Rhaeto-Romans were thereby given an interest in the status of the language and in an act giving symbolic recognition to this but they were not bent on demanding practical recognition of the language in the workings of the various domains of the state. They did not put a demand that Rhaeto-Romanic should be recognised at least as a partial official language. On several pages the petition explains that, and why the use of Rhaeto-Romanic would be out of the question, be it in connection with the official collection of federal laws and decrees, be it as a language to be used in the federal legislative assemblies and the federal court, or in the army. The cantonal government, being the petitioner *vis à vis* the Confederation, was concerned about the costs resulting from possible concrete demands almost as much as the federal authorities receiving the

petition. The following quotations from the Swiss Federal Council's statement of 1 June 1937 emphasise this: 'Just imagine what equality of status of Romansh in this respect would lead to and how this would affect the federal budget', and 'The Rhaeto-Romans do not make demands in this respect'; and also 'As for the future, the Rhaeto-Romans will not demand anything more in this respect'.

In agreement with the government of the Grisons canton the Confederation arrived at the following draft wording of the new Article 116 FC: 'German, French, Italian and Rhaeto-Romanic are Switzerland's national languages. German, French and Italian are declared official languages of the Confederation.'

The first paragraph of this new Article 116 has thus acquired the character of a statement of intent. In a declamatory manner and together with German, French and Italian, Romansh is recognised as a separate and self-sustaining language, but without legal obligation as regards its employment in the administration. In the Swiss Federal Council's statement of 1 June 1937 this comes out quite clearly:

Of course, reality sets certain limits to the actual and legal consequences of equal rights. If we wanted to put Rhaeto-Romanic as an *official language* of the Confederation on to the same level as the other three languages, this would inevitably entail additional personnel and expenditure for the federal administration and the federal budget, in other words an expenditure which could not possibly be in an appropriate proportion to the object aimed at. . . . A recognition of Rhaeto-Romanic as an official language of the Confederation with all the consequences resulting from it would also go beyond what is regarded as fair and necessary. . . . It would therefore be pointless and irrational to add Rhaeto-Romanic to the Confederation's existing official languages.

New Significance of the Term 'National Language'

The new article on languages of the federal constitution brought about a change to the meaning of the term 'national language'. In 1848 the term 'national language' was synonymous with the term 'official language'. The new distinction made by the constitutional law between national and official languages gave new dimensions to the term 'national language'. 'National language' now exclusively referred to a language that was spoken by a people belonging to the Swiss Confederation. Only the status of official language implied that the language in question must also be employed by the Confederation when addressing its citizens and that that language must be represented in the various decrees, reports and papers emanating from all federal authorities and their administration. According to this interpretation made by the Federal Council in its statement of 1

June 1937 there was practically no change for the Rhaeto-Romanic language despite its new status as an explicitly recognised national language. With regard to the further demands made by the Grisons government (see above), the Confederation's attitude remained rather aloof and the latter announced that these demands could not legally be dealt with in connection with the revision of the constitution.

Cautious Promises

Basically, it was confirmed that in future the Confederation in its use of the Rhaeto-Romanic language would not retreat from the practice exercised until now. Thus views about the difficulty of having to deal with not one uniform Rhaeto-Romanic literary language but with different varieties having the status of regional written languages did not have to be expressed either. The domestic regulations in the multilingual Grisons canton continued to remain with the cantonal legislation. With reference to translations – 'for reasons of a practical, that is financial nature' – voluntary restriction to laws 'that directly affect the legal life of a people and for that reason must become the intellectual property of the general public' was declared. The Romansh texts, however, were not to be regarded as legally authentic. Renewed attention should also be paid to the Romansh nomenclature in Romansh speaking or mixed areas of the canton with regard to land registers, cartography, timetables, official railway guides, official placards and information given by the post office, the customs and the army administration according to the Federal Council's statement of 1 June 1937. In its statement the Federal Council also declared its fundamental willingness to have official documents – written in Romansh and submitted to government offices and judicial authorities of the Confederation – translated, where necessary, without charging the parties. Furthermore, the printing of the dictionaries and of the dialect dictionary should be subsidised 'within tolerable limits'. The debates on the revision were turned into an 'hour of consecration' and into a patriotic manifestation in parliament. The comments made by the President of the representative assembly were symptomatic following a thundering speech made by a Rhaeto-Romanic member of the assembly recorded in the minutes of the 1937 winter session assemblies of the federal legislative: 'We have allowed Mr Condrau our honourable member for the Grisons to make his speech in Romansh. Although this is contrary to the rules and the resolution to be passed now I would have thought it to be wrong in this case to conform to the rules. I just hope this does not find followers and that the House will not resound with all the languages of the world'. In the plebiscite of 20

February 1938 Rhaeto-Romanic was then with 574 991 votes for and 52 827 against overwhelmingly recognised as a national language. German, French and Italian remained the Confederation's official languages.

Demonstration against Nationalist Trends across Switzerland's Borders

The linguistic-political campaign of the 1930s, which was highlighted in the federal plebiscite of 1938, presented the 'Rhaetoromania' with an excellent opportunity of doing public relations work for itself in Switzerland and abroad. The political and social discussions on the subject of 'Rhaeto-Romanic – national language', gave the Swiss Confederation the opportunity of discussing fundamental questions with regard to comprehension of the state and Switzerland's attitude towards the nationalist trends to be observed across its borders. The repulsing of Italian irrendentism and German National Socialism played a decisive part in these discussions: 'The Swiss Confederation would owe its character as a nation to other factors than to the common language. It represents much more a spiritual community, supported by the will of peoples speaking different languages to live together as *one* nation and to preserve and to defend the freedom and the unity earned in a historical common past by making common cause', according to the Federal Council's statement of 1 June 1937. One of the fundamental legal maxims behind the Swiss national understanding would lie with the principle of equality of rights for the national languages.

De facto, however, the constitutional recognition of Rhaeto-Romanic as a national language did not bring about any real equality of rights either. It must be admitted that the possibilities of employment of the Rhaeto-Romanic language on a federal level remained very much restricted. Add to this that the few existing possibilities of extending the use of the Rhaeto-Romanic language at the Confederation level (such as the translation of federal laws) were not turned to advantage in the decades following the 1938 plebiscite. In the late 1970s and in the 1980s, new demands were finally made. Following the creation of a common literary language and based on a clear concept with regard to linguistic planning, a new basis for an increased presence of the Rhaeto-Romanic language at Confederation level was formulated. Nevertheless, the conceptual, solemn declaration of 1938 as a symbolic act bore fruit.

A New Dimension: Territorial Principle

On a linguistic-legal level the recognition of Rhaeto-Romanic as a

state language brought, however, a new aspect, hence a new dimension into the discussions: the 'jus soli' or 'territorial principle': 'Our people must finally claim the authority over its territory, the *jus soli* (the right to its own soil), which, although not being written down in any laws, is nevertheless recognised and practised throughout Switzerland, our native country; in other words, the right to request that everyone recognises the supremacy of the language of the territory of his domicile,' as Otto Gieré put it in a 1934 lecture.¹

Based on the new Article 116, Federal Constitution, the *Lia Rumantscha* then proposed in its 1947 petition to the Federal Council of the Swiss Confederation a 'law for the protection of languages' for the Rhaeto-Romanic areas: 'Each national language has got its specific territory. The Rhaeto-Romanic "linguistic map" should also be given its precise boundaries and the resultant Romansh territory ought to be treated as such.' This territory needed to be given a kind of 'language guarantee law' preventing desertion from Rhaeto-Romanic to German and declaring the use of Romansh within the above-mentioned boundaries as compulsory: 'The situation would be different if the area recognised as Romansh territory could be declared a "Romansh zone", so to speak, by the state. People migrating from the German speaking part of Switzerland to this "Romansh zone" would then take greater interest in learning the local language, and through time they would thus be assimilated by the Romansh community.'²

Thus, based on the new Article 116, Federal Constitution, the 'Rhaetoromania' now took part in the discussions about the territorial principle as an instrument of the Swiss language policy. These discussions are continuing at present. From Article 116, paragraph 1, Federal Constitution, the Federal Court has again and again made the interpretation that the traditional linguistic structure of Switzerland and the homogeneity of the language areas would therewith be guaranteed. Numerous experts in linguistic law³ have concerned themselves with this problematic subject.

Notes

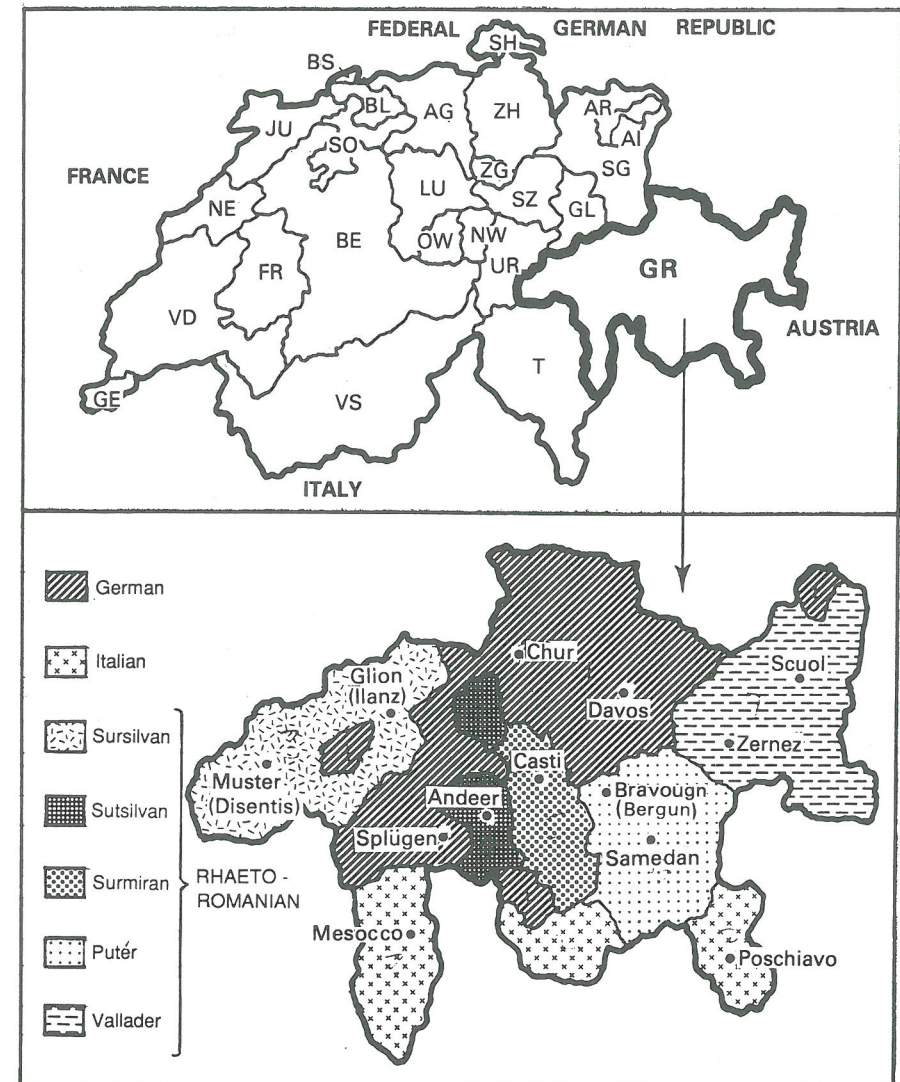
- 1 See Gieré (1935), p. 208.
- 2 See *Lia Rumantscha* (1947), p. 30.
- 3 See, for example, G.-R. Gieré (1956), Hegnauer (1947), Malinverni (1988), Schächli (1971), Thürer (1984) and Viletta (1978, 1984).

Bibliography

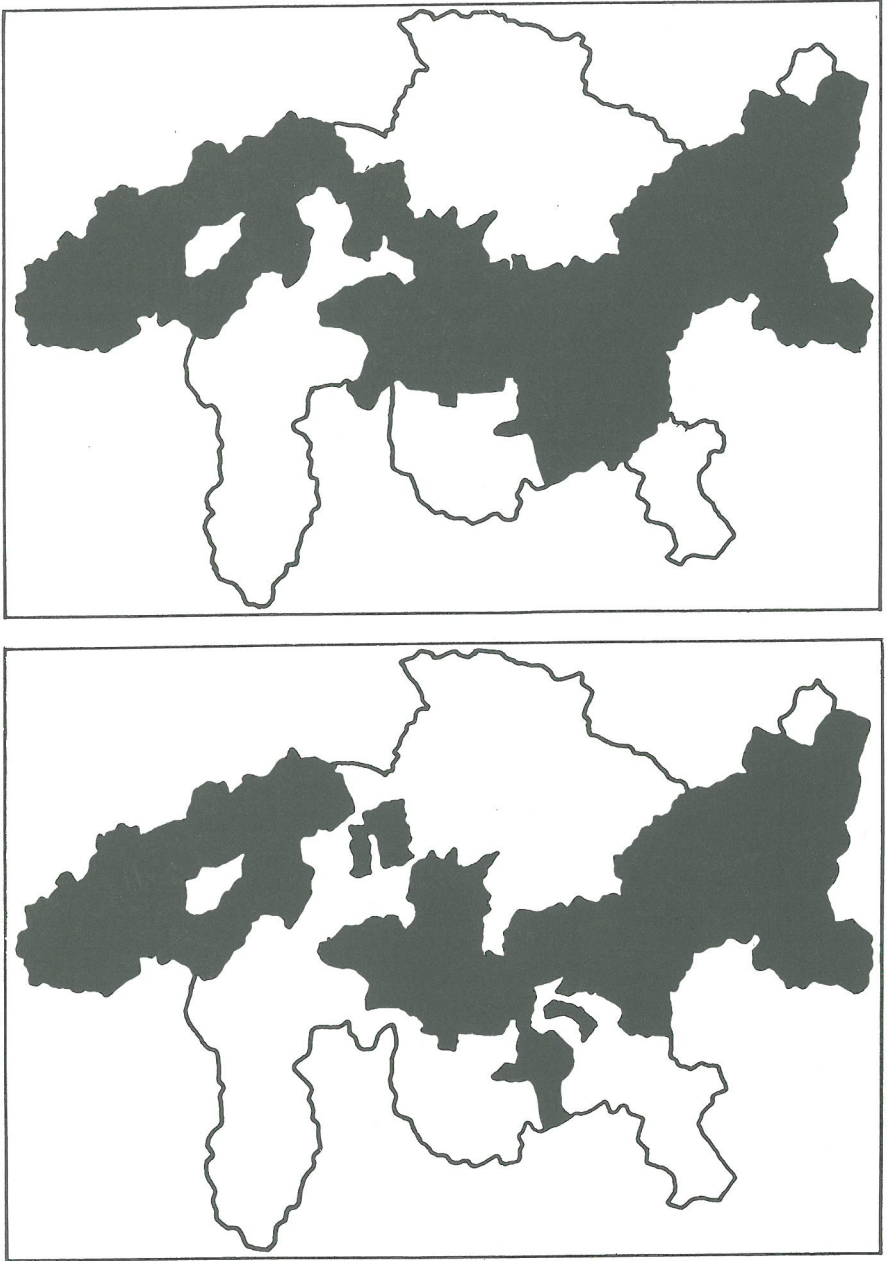
Baumer, Helen (1985), 'Romansh – Alpine language fighting for survival', in *Swiss Scene Report*, no. 1/2, January/February.

- Baur, Arthur (1955), 'Wo steht das Rätoromanische heute?', Ein sprachpolitischer Lagebericht, in *Jahrbuch der eidgenössischen Räte 1955*, Verbandsdruckerei AG: Bern.
- Bibliografia retoromantscha, 1552–1984* (1986), Lia Rumantscha: Cuira.
- Billigmeier, Robert Henry (1979), *A Crisis in Swiss Pluralism*, Mouton: The Hague, Paris, New York.
- Botschaft des Bundesrates an die Bundesversammlung über die Anerkennung des Rätoromanischen als Nationalsprache (vom 1. Juni 1937)*, Bundesblatt 22 (1937), 1–31.
- Camartin, Iso (1980), 'The Rhaeto-Roman Minority in 1980', *The Art Gallery*, XXIV, no. 1 Autumn.
- Cathomas, Bernard (1984), 'Minderheiten in der Selbstbesinnung und Selbstbestimmung' *Ladinia* 8, pp. 5–16.
- Cathomas, Bernard (1988), 'Der lange Weg zur Gleichberechtigung', *Terra Grischuna*, February, pp. 11–15.
- Decurtins, Alexi (1976), 'Rhaeto-Romance, a test case for the fate of language and cultural minorities?', *Europäische Hefte*, Hamburg, January.
- Derungs-Brücker, Heidi (1988), 'Ligia Romontscha – Animatorin der rätoromanischen Bewegung', *Terra Grischuna*, February, pp. 44–8.
- Dokumentationsdienst der Bundesversammlung, *Rätoromanische Sprache: Verfassungsänderung*, Amtl. Bulletin der Bundesversammlung, Wintersession 1937.
- Dörig, Hans Rudolf, and Reichenau, Christoph (1983), *Le quadrilinguisme de la Suisse réduit à 2½?*, Desertina: Disentis.
- Furer, Jean-Jacques (1981), *La mort du romanche ou le commencement de la fin pour la Suisse*, Revista Retoromantscha: Cuera.
- Furer, Jean-Jacques (1987), 'The threat to Romansh and the promise of "Rumantsch Grischun"', *Zeszyty Naukowe Uniwersytetu Jagiellonskiego*, DCCCX, Prace Polonijne, pp. 47–59.
- Ganzoni, Robert (1936), 'Il rumauntsch scu quarta lingua' (The Romansh as the fourth language), *ASRR* (Annals de la Societad Retoromantscha), 50, pp. 22–45. *Gesetzessammlungen und Amtsblatt des Kantons Graubünden* (19th and 20th centuries).
- Gieré, Gian-Reto (1956), *Die Rechtsstellung des Rätoromanischen in der Schweiz*, Verlag P.G. Keller: Winterthur.
- Gieré, Otto (1935), 'Il rumauntsch all spartavias' (The Romansh on the cross-way), *ASRR* 49 (see above Ganzoni), pp. 204–15.
- Gross, Manfred (1987), *Das Rätoromanische in der Schweiz*, Informationsschrift mit Literaturhinweis, Lia Rumantscha: Cuira (Chur).
- Grossratsprotokolle des Kantons Graubünden, 1803–1940*.
- Hegnauer, Cyril, *Das Sprachenrecht der Schweiz*, Schulthess: Zurich.
- Im Hof, Ulrich (1975), 'Die Viersprachigkeit der Schweiz als Minoritätenproblem des 19. und 20. Jahrhunderts', in Beat Junker, Peter Gilg and Richard Reich (eds), *Geschichte und politische Wissenschaft*, Francke: Bern.
- Lansel, Peider (1947), *The Raeto-Romans*, Bischofberger: Chur.
- Lia Rumantscha (1931, 1947), *Eingaben an den Hohen Bundesrat der Schweiz. Eidgenossenschaft um Erhöhung der Bundessubventionen zu Gunsten der L.R.*
- Lia Rumantscha (1919), *Eingabe der Lia Rumantscha an den hochlöbl. Kleinen Rat des Kantons Graubünden zu Handen des hochlöbl. Grossen Rats*: Chur.
- Malinverni, Giorgio (1988), 'La liberté de la langue, Art. 116 CF', in *Commentaire Constitution fédérale suisse*.
- Mathieu, Jon (1988), 'Die Organisation der Vielfalt: Sprachwandel und Kulturbewegung in Graubünden seit dem Ancien Régime', *Bündner Monatsblatt*, 3, pp. 153–70.
- Mayer, Kurt B. (1979), 'Language groups in Switzerland', *Plural Society*, 10 (J-4), pp. 53–70.
- Nay, Sep Modest (1937), 'Il romontsch lungatg nazional' (The Romansh as a National Language), *ASRR* (see above Gieré), 51, pp. 268–76.

- Peer, Andri (1970), 'Rhaeto-Romanic Literature', in *Swiss Men of Letters*, Oswald Wolff: London, pp. 101-19.
- Pieth, Friedrich (1945), *Bündnergeschichte*, Schuler Verlag: Chur.
- Pult, Chasper (1984), 'Romansh - the Chance behind the Challenge', *Swissair Gazette*, 2.
- Rechtsquellen des Kantons Graubünden* (1982), Series B, Dorfordnungen, Andrea Schorta (ed.), 2, unveränderte Auflage, Uniun dals Grischs: Celerina/Schlarigna.
- Rechtsquellen des Kantons Graubünden* (1980-5), Series B, Die Statuten der Gerichtsgemeinden, vol. I: der Gotteshausbund. Revised and edited by Andrea Schorta in collaboration with Peter Liver, Sauerländer: Aarau.
- Röder, G.W., and von Tscherner, P.C. (1838), *Historisch-geographisch-statistisches Gemälde der Schweiz*, no. 15: Der Kanton Graubünden, Huber: St Gallen and Bern.
- Schäppi, Peter (1971), *Der Schutz sprachlicher und konfessioneller Minderheiten im Recht von Bund und Kantonen*. Das Problem des Minderheitenschutzes, Schulthess Polygraphischer Verlag: Zurich.
- Schäppi, Peter, et al. (1979), *Schlussbericht der Sprachenrechtskommission an die Ligia Romontscha/Lia Rumantscha*: Chur.
- Schläpfer, Robert, et al. (1985), *La Suisse aux quatre langues*, Zoé: Geneva.
- Schmid, Heinrich (1983), *Gutachten zuhanden der Regierung des Kantons Graubünden: Über die Lage des Rätoromanischen in der Schweiz*: Zurich (manuscript).
- Statistisches Jahrbuch der Schweiz* (1979-82), Birkhäuser Verlag: Basel.
- Stricker, Hans (1980), 'Romansh: The Fourth Language of Switzerland', *The Art Gallery*, XXIV, no. 1, Autumn.
- Thürer, Daniel (1984), 'Zur Bedeutung des sprachenrechtlichen Territorialprinzips für die Sprachenlage im Kanton Graubünden', in *Schweizerisches Zentralblatt für Staats- und Gemeindeverwaltung*, vol. 85: Zurich.
- Viletta, Rudolf (1978), *Abhandlungen zum Sprachenrecht mit besonderer Berücksichtigung des Rechts der Gemeinden des Kantons Graubünden*, vol. I: Grundlagen des Sprachenrechts, Schulthess Polygraphischer Verlag: Zurich.
- Viletta, Rudolf (1984), 'Die Rätoromanen: Geduldetes Relikt oder gleichberechtigter Teil der Eidgenossenschaft', in Cattani, Alfred, et al. (eds), *Minderheiten in der Schweiz. Toleranz auf dem Prüfstand*, Verlag NZZ: Zurich.
- Weinreich, Uriel (1951), *Research problems in bilingualism with special reference to Switzerland* (Dissertation): New York.



Map 5.1 The division of Switzerland into Cantons and the location of the Canton Grisons. The prevailing languages and dialects in the Canton Grisons



Map 5.2 Regions inside the Canton Grisons in which Rhaeto-Romanic (Romansh) prevailed in 1860. The comparison showing the territorial loss during 80 years