

Policy Matters Blog #22 – Bill 96

COMMITTEE SUBSTANTIVELY CHANGES QUEBEC HUMAN RIGHTS LAWS

April 13, 2022 – The National Assembly’s [Committee on Culture and Education](#) yesterday resumed its clause-by-clause analysis of Bill 96, [An Act respecting French, the Official and Common Language of Québec](#). Members discussed clauses 107 and 125 to 146, which make several modifications to Quebec’s Code of Civil Procedure, the provincial *Charter of Human Rights and Freedoms* (Quebec Charter), and the Interpretation Act.

Firstly, the committee debated the earlier suspended Art. 165.22 in clause 107 of the bill. This provision outlines the “disclosure” process for grievances filed to the Office québécois de la langue française regarding potential or possible violations of the *Charter of the French Language*. This clause was adopted.

Clauses 125 through 132 were adopted with no discussion.

Heated exchanges ensued regarding clauses 133 through 136 of Bill 96. These significantly change provincial human rights laws in the Quebec Charter. Clause 133 recognizes, in the Quebec Charter’s preamble, French as the “only official language of Quebec,” as well as “the common language of the Quebec nation,” and “the language of integration into the Quebec nation.” Clause 134 grants Quebecers the “right to live in French to the extent provided for in the Charter of the French Language.” Clause 135 adds that the exercise of all rights and freedoms in the Quebec Charter can be limited by laws in accordance with principles of democratic values, state laicity, public order, and now “the importance given to the protection of French.” Finally, clause 136 requires that interpretations of human rights and freedoms granted by the Quebec Charter cannot suppress or limit the exercise of any rights in the *Charter of the French Language*.

Liberal MNAs Hélène David and Gaétan Barrette expressed several concerns about the changes proposed by Minister of Justice and Minister Responsible for the French Language Simon Jolin-Barrette. While both stated that they supported the substance of these modifications, they expressed disagreement with the way in which these provisions were being enacted into law. MNA David stated that changes to Quebec’s human rights laws have, historically, been introduced through distinct bills rather than crammed into omnibus legislation like Bill 96. She expressed dissatisfaction over a lack of public consultations and multiday deliberations with human rights lawyers and experts, community stakeholders, and members of the Quebec public. She and MNA Barrette both stated that this accelerated method to make changes to Quebec’s Charter, a human rights “pillar” of Quebec society, undermines the democratic process.

Minister Jolin-Barrette responded that unions, for example, were consulted regarding the changes proposed to the Quebec Charter. He also said that the Human Rights Commission does not hold a “monopoly” on the scope of human rights law. He stated that the true undermining of democracy is to question or denigrate the parliamentary sovereignty of the National Assembly, such as the federal government did with the *Constitution Act, 1982*, which was enforced on all provinces without consent being obtained from Quebec. MNA Barrette concluded by stating that changes to human rights charters

and constitutions should not be made quickly. He added that the Minister's actions could provide future governments the green light to push through major changes to human rights law in the same way.

The Minister also explained that Bill 96's changes to the Quebec Charter are meant to officially have human rights and French-language rights read and interpreted alongside one another. These new provisions to the Quebec Charter further aim, according to Minister Jolin-Barrette, to ensure that interpretation of human rights and freedoms be understood within the scope of protecting the French language. Québec Solidaire MNA Ruba Ghazal said she supported the enshrinement of the collective right of the Quebec nation to protect the French language. However, like MNAs David and Barrette, she criticized the Minister for inserting these changes into a dense omnibus bill, rather than introducing them in a standalone bill.

These changes to the Quebec Charter could create a new balancing act for judges – requiring them to rule between the individual rights of Quebecers on the one hand and, on the other, the collective right of the Quebec nation to protect the French language. These changes open the possibility for new judicial precedents, under which infringements of certain individual rights (including religious or linguistic minority rights) could be judged to be justified if these infringements are ruled to be incidental or inadvertent consequences of preserving the collective right of the French-speaking Quebec nation.

Ultimately, the committee voted to adopt clauses 133 through 136. MNAs David and Barrette abstained on all four clauses.

Clause 137 was adopted with no debate.

Committee discussions then turned to clauses 138 through 141, which modify Quebec's Code of Civil Procedure. These provisions would require that provincial procedural law adhere to the rights and principles enshrined in the *Charter of the French Language*. Namely, these provisions would require that notifications of pleadings written in a language other than French be accompanied by a certified French-language translation. They also require foreign judgments that a party wishes to submit in a judicial proceeding must have attached a certified French-language translation, if written in any other language. If the party wishing to submit the foreign judgment is a legal person (such as a business corporation), then that party must incur the translation fees. The committee adopted these clauses.

Consideration of clauses 142 and 143 was suspended, to be resumed at a later date. Clauses 144 and 145 were adopted with no debate.

Lastly, the committee began examination of clause 146, which adds new provisions to Quebec's Interpretation Act. These provide that in their analyses of Quebec laws before the courts, judges must analyze the provisions in a way that: takes into account the protection of the French language; and does not suppress or limit any rights granted by the *Charter of the French Language*. The committee adjourned before this debate was concluded.

The committee is scheduled to reconvene later today.