

Open Letter to Minister Simon Jolin-Barrette from Marlene Jennings

MONTREAL, September 17, 2021 – Today marks the start of hearings of the National Assembly Committee on Culture and Education on *Bill 96, An Act Respecting French, the Official and Common Language of Québec*. This represents a critical part of our democratic process even though regrettably only a very limited number of Quebecers have been asked to share their views on what is the greatest overhaul to Québec's legal order since the Quiet Revolution.

The Quebec Community Groups Network, the voice of English-speaking Quebecers, looks forward to meeting with the Committee on Sept. 28 and explaining our profound concerns with the proposed legislation. In helping us prepare for the hearings, however, it would be helpful if you would address some of the fundamental issues related to the Bill in your opening remarks so that we and all Quebecers have a better understanding of your rationale for certain key provisions of this far-reaching initiative.

Bill 96: Our View

Bill 96 is a wide-ranging and complex piece of legislation. It represents a significant overhaul of Québec's legal system. It amends the Charter of the French Language (Bill 101), 24 other provincial statutes, one regulation, and the Constitution Act, 1867. As the QCGN has stated, Bill 96 calls for the most sweeping use of human rights overrides in Québec's history, ousting the application of both the Quebec Charter and the Canadian Charter. It effectively creates a Charter-free zone with respect to a wide range of interactions between individuals and the state in Québec. It touches on commerce, employment, education, access to public services, expression in a range of contexts, and the operation of the legal system. Where rights that would otherwise be protected are infringed, the courts will not be able to review and remedy the rights-violating conduct under either the Canadian or Quebec Charters.

This Bill is about our values and the Québec and Canada we want to live in. The Québec government is proposing to redefine the social contract we have developed between Québecers over the past many decades and the relationship between Québec and Canada. This is of concern to all Québecers and deserves to be fully debated and discussed. In considering the legislation it is critical that the diverse voices of Québec are heard and taken into account. We need to take the time to build a consensus on the type of society we wish to live in, and we continue to urge you to prolong the work of the Committee on Culture and Education so that more Québecers have the opportunity to participate and engage in this important public policy debate.

In light of the government's decision to restrict participation at the hearings to about 50 groups and individuals, the QCGN sponsored its own hearings from Sept. 9 to 17, bringing together dozens of Québecers and providing them with a forum to share their views on Bill 96. We heard from a wide range of Québecers spanning from stakeholders in health and social services, representatives from the arts and culture community, entrepreneurs and business leaders, the education sector, women's rights

groups, and other underrepresented communities. We also received briefs from leading jurists and scholars including Gregory Borden and Azim Hussein of the Coalition Inclusion Québec, Michael Bergman, Pearl Eliadis, Julius Grey, Robert Leckey and representatives of the Lord Reading Law Society.

We will be including the submissions we received with our brief so that these important and credible voices are brought to the attention of the Committee.

Our Questions

I am sure that you will be encouraged to know that a broad consensus exists within Quebec's English-speaking community in support of French as the common language of Quebecers. As so eloquently said by Christopher Neal of the Quebec Writers' Federation: "Bill 96 is counterproductive in targeting English-speaking Quebecers who have proven themselves allies in learning, speaking and promoting French. English-speaking Quebecers invented French-immersion programs, now attended by half a million students across Canada. We share with them not only a love for the French language, but also a personal investment in assuring its survival."

It is in this context as we start the National Assembly hearings that we urge you to set the stage by addressing the following fundamental questions:

Why is the Charter of the French Language being overhauled now—during a pandemic, when public attention is on health and the economy?

While it is clear that Bill 96 is upsetting the social peace around language that has endured in Quebec for several decades, no evidence has yet been presented on how the specific measures in this Bill will improve the situation of French in Quebec. How will it improve the situation of French in Quebec? Why is this bill necessary? What aspects of the current Charter of the French Language are inadequate to protect the French language, and how does Bill 96 address these aspects?

1. Why is Quebec is poised to depart both from its proud tradition of protecting human rights, and from the international human rights standards to which Quebec has bound itself by pre-emptively using the notwithstanding clause to override the Quebec and Canadian Charters of Rights and Freedoms necessary?
2. Why is Quebec adding new executive powers to the Charter of the French Language, including new search and monitoring powers that will not be subject to the prohibition on unreasonable search and seizure found in both the Canadian and Quebec Charters?
3. Why is Bill 96 adding new disclosure protections that will not be subject to protections of personal privacy and professional secret?
4. Why is Bill 96 adding new sanctions and penalties that will not be subject to the prohibition against cruel and unusual punishment?

5. In an unprecedented legislative move, Bill 96 purports to amend the Constitution Act, 1867, which in turn raises many questions. More precisely, what principles will apply to the proposed text and what are the implications of the amendment, particularly with regards to Quebec's English-speaking community?
6. Is Bill 96 restricting membership in Quebec's English-speaking community to only those who have eligibility certificates to study in English?

The questions we are posing are fundamental for ensuring Quebecers have a full understanding of the objectives of Bill 96, and your answers will help set a framework for a discussion on the Quebec we want to build together.

As we prepare for our presentation on Sept. 28 and look to continue our dialogue with all Quebecers, I wish to remind you that the QCGN's Statement of Principles commits our organization to recognize French as the official language of Quebec. The current Charter of the French Language commits the National Assembly to pursuing the legislation's objectives "in a spirit of fairness and open-mindedness, respectful of the institutions of the English-speaking community of Quebec, and respectful of the ethnic minorities, whose valuable contribution to the development of Quebec it readily acknowledges." In looking ahead, we hope to build on these guiding principles in support of an inclusive Quebec where French is the common language.

The Quebec Community Groups Network (www.qcgn.ca) is a not-for-profit organization bringing together English-language community organizations across Quebec. As a centre of evidence-based expertise and collective action it identifies, explores, and addresses strategic issues affecting the development and vitality of the English-speaking community of Quebec and encourages dialogue and collaboration among its member organizations, individuals, community groups, institutions, and leaders.

For further information:

Rita Legault, Director of Communications | rita.legault@qcgn.ca

Telephone: 514-868-9044, ext. 223, cellular: 514-912-6555