

Opening remarks by

**QCGN President,
The Honourable Marlene Jennings, P.C., LLB**

Committee on Culture and Education

Special consultations and public hearings on *Bill 96, An Act respecting French, the official and common language of Québec*

September 28, 2021

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Good afternoon, Mme. Thériault, Mme. Guillemette, and members of the Committee.

I am Marlene Jennings, President of the Quebec Community Groups Network, a not-for-profit advocacy group that supports the vitality of the English-speaking minority community of Quebec. Joining me today are former Minister and MNA Clifford Lincoln, our legal counsel Marion Sandilands, and human rights lawyer Pearl Eliadis.

Madame Chair, we have much to share with you.

Bill 96 proposes the most extensive overhaul of Quebec's legal order since the Quiet Revolution. It would fundamentally alter the structure of the state. It proposes to upend 40 years of human rights protection. It seeks to fundamentally transform how Quebec is governed. It would have a significant impact on the relationship between Quebec and Canada, the lives of all Quebecers, and the type of society we wish to build together.

Earlier this month the QCGN held a parallel community consultation. Over five days we heard from 50 individuals. These included jurists, academics and educators, entrepreneurs and business leaders, as well as representatives from health and social services, the arts community, women's rights groups, and underrepresented communities. Our hearings garnered much interest in our community with hundreds tuning in live and thousands viewing them later. Please note all of our community's interventions have been appended to our brief. Based on this broad consultation I am confident that the views we are sharing with you reflect a wide consensus within our community.

The QCGN, and indeed most in our community, favour promoting and protecting the French language in Quebec – and throughout Canada. But we are convinced there are more effective and inclusive ways to achieve this goal than those outlined in Bill 96.

We maintain that in its haste the government skipped a critical step. It failed to bring Quebecers together to identify challenges, to separate myths from realities and, most importantly, to build a consensus on the best path forward.

There is much in this bill that we oppose. But there are a few fundamental issues we wish to highlight.

Constitutional Amendment

Bill 96 proposed a unilateral amendment to the Constitution Act, 1867 to
recognize that Quebecers form a nation;
that French shall be the only official language of Quebec;
and that French is the common language of the Quebec nation.

The implications for Quebec's English-speaking minority are unclear, but such an amendment would not be benign. Justice Minister Jolin-Barrette stated on number of occasions that the proposed amendment will have a Constitutional impact.

For non-Francophones, it is hard for us to see where we fit in. It is not clear who is part of the "Quebec nation". Given recent government immigration policies, Bill 21, and this bill, the picture that emerges is that the Quebec nation does not include everyone who lives in Quebec.

We ought to understand the implications of such a revolutionary constitutional amendment. That is why we entreat the Government to send a reference question on the constitutionality and meaning of this amendment to the Quebec Court of Appeal.

A Charter-Free Zone

Bill 96 represents the most sweeping use of human rights overrides in Quebec and Canadian history.

One of our witnesses stated that Quebec's Charter of Human Rights and Freedoms was, arguably, a crowning jewel of the Quiet Revolution. Our greatest legal minds and successive Liberal and Parti Québécois governments crafted, adopted, strengthened, and implemented a human rights charter that was recognized as one of the most innovative, comprehensive, and progressive in the world. Premier René Lévesque was so proud of the 1983 version of the Charter that he mailed a copy to every household in Quebec.

Yet, with both Law 21 and Bill 96, the Quebec government has turned its back on a proud tradition of championing human rights. Eminent jurists including human rights lawyer Pearl Eliadis point out that one of the worst aspects of Bill 96 is that it would make it more difficult — if not impossible — to challenge any violation of rights due to the pre-emptive use of the Notwithstanding clause.

Charters of Rights protect individuals from the abuses by the state. With the pre-emptive override, this protection is eliminated. The government is establishing a Charter-free zone.

This sweeping legislation would affect multiple aspects of life including commerce, employment, education, access to public services, and the operation of our legal system. Where rights that otherwise would be protected are infringed, courts will not be able to review and remedy the rights-violating conduct under either the Canadian or Quebec charters.

As we asked in an open letter to Minister Jolin-Barrette last week: "Why does the protection of the French language require the blanket suspension of human rights?" Our conclusion is that it doesn't. That is why we are calling for Notwithstanding clause to be left out of this bill.

Who is an English-speaking Quebecer?

Bill 96 attempts to limit services in English to citizens eligible to attend English schools. This apparently is the government's attempt to identify an 'historic anglophone community.' Unfortunately, eligibility to attend school in English is not in any way linked to the language of the student or the parent. Rather, it is linked to the language of instruction received by the parent.

The use of the "English-eligible" concept is deeply problematic. It is divorced from the community's self-identification. It revokes the right to access services for between 300,000 and 500,000 English-speaking Quebecers. Thus, the QCGN maintains that the right to communication and services in English must never be based on eligibility for English instruction.

We have a host of other concerns. We oppose provisions that would increase the powers of the Office de la langue française – particularly that it be empowered to conduct searches without a warrant. We disagree with proposals that would limit access to justice for English-speaking Quebecers and proposed changes to temporary permits that would limit access to services in English for newcomers to six months. Provisions in the Bill would also make it more challenging to do business in Quebec. In a time of global competition for investment, why erect new barriers?

In conclusion, let me repeat that we applaud the objective of Bill 96. In fact, QCGN's Statement of Principles commits our organization to recognize French as Quebec's official language.

As one of the witnesses that testified at our hearings noted: 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.”

We need a better and unifying path forward than offered by Bill 96 – one that is both moderate and reasonable. Once again, we urge the Government to withdraw the Bill and launch a public consultation to determine how all Quebecers can come together to promote the use of French.

Bill 96 simply does not reflect the modern inclusive Quebec that members of our community have helped build. Clifford Lincoln is one our bridge builders. I would like to invite him to make our closing remarks.