

Law 96: Context, Description, Timeline, and Aftermath



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TABLE OF CONTENTS

CONTEXT	4
DESCRIPTION OF THE LAW	4
TIMELINE	4-5
AFTERMATH	5
WORKS CITED	7-8

CONTEXT

“The time has come to take strong action,” says Simon Jolin-Barrette, the minister responsible for the French language. Tabled on 13 May 2021 by the Québec government, Law 96 aims to promote the French language and respond to a growing concern among many Quebecers that the language is on the decline across the province. This is the Coalition Avenir Québec (CAQ)’s effort to upgrade Bill 101, the province’s French-language charter first adopted in 1977 by the Parti Québécois (PQ) government of René Lévesque (Banerjee 2021).

This law has been surrounded by controversy from the moment it was announced. One primary reason is because the law would include the notwithstanding clause. By using this clause, the law is protected from certain legal challenges (Banerjee 2021). In other words, the Courts cannot invoke specific sections of the Canadian Charter of Rights and Freedoms to invalidate articles of the law that might infringe those particular rights.

Various English-language groups in the province have expressed their opposition to either parts of, or the entire law, fearing its adverse effects on a linguistic minority. Indeed, when polled in summer 2021, 95% of English-speaking Québecers opposed Bill 96 (66% strongly, 29% oppose) (Angus Reid 2021). The Québec Community Groups Network (QCGN), for example, opposes the entire bill (Authier 2021), while the English College Steering Committee (which includes six colleges as members), opposes most of its elements targeting their academic institutions (Sherwin 2022).

DESCRIPTION OF THE LAW

The legislation stands at 100 pages and includes over 200 articles. There are five major axes to its proposals. The first element amends the “Provincial Constitutions” section of the Constitution Act of 1867, which establishes the government structures of the provinces, to state that “Quebecers form a nation[,]” and that “French shall be the only official language of Quebec”. The second element stipulates that the total number of students allowed in English-language CEGEPs be capped so as to compensate for the trend of decreased French CEGEP enrolment. Thirdly, the Office Québécoise de la langue française (the OQLF) is given more powers to guarantee the observance of the Charter of the French Language. Fourth, the law mandates that Bill 101, which enforces the use of French in the workplace, be broadened to cover federal workplaces in Québec, as well as companies with 25 to 49 employees. Fifth, the bilingual status of municipalities (without a population of at least 50% English speakers) is to be revoked, meaning that official documentation would only be distributed in French (Bruemmer 2021).

TIMELINE

From September 21 to October 7th 2021, public hearings were held for the bill. 39 groups were invited to speak; 3 of these were English-speaking organizations (Sargeant 2021). The following month, the Committee started its clause-by-clause review and finished the process in April 2022 (Assemblée nationale du Québec 2022). The amendment period has seen various controversies emerge, most notably that surrounding French language courses in CEGEPs.

In February 2022, the Québec Liberal Party (QLP) suggested an amendment, presented and adopted by the CAQ, which all parties endorsed, wherein English-language CEGEP students would be made to take three of their core courses in French. After this was poorly received by the English-language CEGEPs and the linguistic minority community at large, the QLP denounced their own amendment and announced that they would be voting against the bill in its entirety (CBC News 2022).

As a compromise, presented in April 2022, the CAQ offered English-speaking students attending English CEGEPs the option of taking three of their courses in French or increasing the number of obligatory second-language French courses to three in order to graduate. “Whether it is three courses in French or three courses of French,” says Jolin-Barrette, “it attains the objective.” The new rules will apply to all categories of students starting in the 2024 academic year (Authier 2022).

Not all CEGEP staff, nor their student bodies, seemed to appreciate the settlement. Tiawenti:non Canadian, the coordinator of Dawson College’s First Peoples’ Centre, stated that “[framing] this new amendment as a compromise, ... [is] not true because they’re still going to require students to take an additional three courses” (CBC News 2022).

Despite the controversy, Bill 96 was adopted by the National Assembly the following month, on 24 May 2022. Québec Solidaire (QS) joined with the CAQ to vote in favor of the legislation, while the PQ and PLQ voted against it. The PQ believes the law does not go far enough, while the PLQ claims the law undermines the rights of English-speaking Québécois. QS sees the law as imperfect, yet consists of progress on language policies (Stevenson 2022).

AFTERMATH

Law 96 will likely prove to be a popular law. Data collected during summer 2021 and released during the bill’s public hearings demonstrate that 77% of French-speaking Québécois support it (32% strongly, 45% support), a major asset for any government’s reelection hopes (Angus Reid 2021). And indeed, the CAQ was recently reelected with an even larger majority in the National Assembly.

That being said, legal challenges will no doubt ensue. While the law is protected, as previously mentioned, by the notwithstanding clause, Québec civil rights lawyer Julius Grey is “confident parts of the proposed law could be challenged on other grounds,” even suggesting going so far as the United Nations (CBC News 2022). Canada’s Minister of Justice, David Lametti, has not ruled out the possibility of the federal government intervening in a legal challenge, despite the long odds of success (Nerestant 2022).

Furthermore, Cree and Inuit school boards are seeking exemptions to the law (Bell 2022), while English-speaking Québécois have begun organizing counter-protests in Montréal (Magder 2022). Bill 96, now Law 96, will likely remain within the public discourse for a long time to come.

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