

The Language of Communication Between Individuals and the State in Quebec: Threats to Economic, Social and Health Rights Posed by Bill 96

Executive Summary

Bill 96 proposes to forbid employees of the public sector from communicating with individuals to whom they are offering services in languages other than French, subject to some exceptions. This represents a fundamental change to the *Charter of the French Language*, which has always allowed the administration to communicate with natural persons in languages other than French.

These new provisions of Bill 96 risk compromising access to essential services in the health, social security, educational and municipal sectors for a large number of allophones and anglophones living in Quebec.

Henceforth, all oral and written communication between the administration and natural persons will have to take place in French with some exceptions, the main ones being:

- People who attended elementary school in English in Canada;
- People who had communicated in English with a specific agency before Bill 96 was introduced, but only for further communications with that agency;
- Immigrants during the first six months following their arrival in Quebec;
- Indigenous persons;
- Where “health, public safety or the principles of natural justice so require”

The “administration” is defined very broadly. It includes government employees, employees of the health and social services network, school personnel, municipalities, legal aid offices and other public bodies. Recognized bodies serving the anglophone community (such as anglophone hospitals and schools) do maintain the right to communicate in English with their service users, but not in other languages.

These provisions would mean, for example, that it would be forbidden for a nurse in a hospital to speak a language other than French or English to an immigrant who arrived in Quebec more than six months ago. It seems that she would not even have the right to use an interpreter. A social worker meeting a Spanish-speaking immigrant woman who has been living in Québec for more than six months would not be allowed to communicate with her in Spanish, even if she is a victim of domestic violence who is too upset to express herself clearly in French. Failure to comply with the prohibition on communication in languages other than French would bring disciplinary action. Anyone witnessing an act of non-compliance with the law, such as the unauthorized use of languages other than French when speaking to a service user, may anonymously denounce such non-compliance to the Office québécois de la langue française.

These new provisions would also pose problems in schools, as it appears that teachers would not have the right to communicate with allophone parents regarding their children’s educational progress in languages other than French (or English, in anglophone schools). Other examples of people who could be affected include those contacting the CNESST following a workplace injury, Youth Protection in cases of child mistreatment, the municipal housing authorities for social housing or the social assistance office to apply for welfare.

In most cases, public sector employees would not have the right to provide services in English to anglophones unless the latter are able to prove that they have attended elementary school in English in Canada. To do so, the person would have to show official documents like a letter from the school board where she or he did their elementary schooling. The only places where anglophones could receive services in English without

going through such formalities would be in recognized bilingual institutions such as English-language hospitals and possibly elsewhere in the health and social services network.

These provisions are liable to jeopardize the health and well-being of a large portion of the Québec population. The bill indicates that it is possible to derogate from these provisions where “health, public safety or the principles of natural justice so require,” but there is reason to believe that this exception will be interpreted narrowly.

It is simply not realistic to expect non-francophone immigrants to learn French well enough in six months to navigate the bureaucratic system and communicate about complex and important subjects like income support, housing or healthcare. It would not be realistic even without the long waiting lists for *francisation* courses that currently exist.

As to anglophones, it is equally unrealistic to assume that they will always have in their back pocket the official documents proving that they attended elementary school in English in Canada, ready to exhibit them to public servants so that the latter will be permitted to communicate with them in English.

A recent study of francophones outside of Quebec who only had access to healthcare in English showed that quality of care and patient safety were often compromised. Other studies have shown that linguistic barriers can prevent people from exercising their rights to compensation for workplace accidents or to old-age pensions.

For all of these reasons, we recommend that sections 6, 7 and 15 of Bill 96 be withdrawn.

This would have the effect of removing the provisions prohibiting communication with natural persons in languages other than French and maintaining the status quo in the matter. Currently, the *Charter of the French Language* does not regulate oral communication between the state and natural persons, and its section 15 allows the administration to respond in writing in languages other than French to persons who address it in those languages.

We believe that our recommendations reflect the vision expressed by Camille Laurin in the *Livre blanc*, introduced along with Bill 101 in 1977:

“La Charte a été rédigée, volontairement, de façon à promouvoir les droits du français sans pour autant enlever aux individus la possibilité d’utiliser la langue de leur choix dans la vie de tous les jours. (...) Les individus pourront continuer à s’adresser à l’Administration en anglais et recevoir une réponse dans cette langue; mais dans le cas des personnes morales, la situation sera différente (...). La même formule a été utilisée en ce qui concerne les relations entre les individus et les services de santé, les services sociaux, les ordres professionnels, les syndicats, les entreprises avec lesquelles ils font affaires; tout Québécois pourra exiger l’utilisation de la langue française, mais rien n’empêchera l’utilisation d’une autre langue lorsque tous les intéressés en conviendront.” (p. 49-51).

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