

Mémoire / Brief

We Do Not Exist / Nous n'existons pas

Subject: Concernant le Projet de loi n° 1, Loi constitutionnelle de 2025 sur le Québec (Bill No. 1, Quebec Constitution, Act)

Submitted to: Commission des institutions

**Soumis par : Le Comité Spécial sur la politique linguistique /
The Task Force on Linguistic Policy**

Date: le 24 novembre, 2025

**Contact: Andrew Caddell, président,
PO Box 40554 CP Kirkland, Kirkland, Qc H9H 5G8, info@thetaskforce.ca,
Andrew.caddell@thetaskforce.ca**

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1. The Task Force on Linguistic Policy

The Task Force on Linguistic Policy is a non-partisan, grassroots organization working for linguistic rights of all Quebecers, but notably those of the non-francophone community.

It represents thousands of members and relies on volunteers for its operations, as well as on public donations to fund its legal challenges, including its intervention at the Supreme Court of Canada where it will argue for the reinstatement of rights despite the invocation of the Notwithstanding Clause.

Since its founding in 2021, the Task Force has organized public meetings and rallies, submitted legal briefs to courts, submitted briefs to the National Assembly and Parliament and held expert panel discussions to raise awareness and oppose both Bill 96 and the use of the Notwithstanding Clause.

The Task Force's mission is to represent individuals, partner with organizations and help coordinate under-represented groups to advocate for a bilingual society; taking action to expose and oppose legislative and other measures that:

- Ignore, defy or disregard linguistic rights and freedoms as inscribed in the Canadian Constitution and the Quebec Charter of Human Rights and Freedoms; or
- Reduce or hinder the vitality of, and services for, communities because of linguistic restrictions.

The Task Force website: www.thetaskforce.ca

2. Résumé analytique

Le Comité Spécial sur la politique linguistique a lu et analysé le projet de loi 1, la loi constitutionnelle du gouvernement du Québec, et a déterminé qu'il constituait une menace pour toutes les communautés minoritaires, mais surtout pour les 1,25 million de Québécois anglophones. Il représente également une menace pour l'avenir du Québec au sein du Canada.

Pire encore, en ne mentionnant que brièvement les « institutions anglophones », il ne reconnaît pas les contributions considérables des Québécois anglophones depuis plus de trois siècles. La communauté anglophone du Québec est bien plus que nos institutions, aussi importantes soient-elles : ce sont des personnes en chair et en os qui ont des droits partout au Québec ; c'est la grandeur incarnée dans des noms tels que Redpath, Molson, Drummond, D'Arcy McGee, et d'autres comme Wilder Penfield, Frank Scott, Mavis Gallant, Hugh McLennan, les sœurs McGarrigle, Irving Layton et Leonard Cohen. Notre communauté exige d'être entendue. Et pourtant, le ministre Jolin-Barrette n'a pas eu la décence de nous consulter. Cela envoie un message profond à notre communauté : « **vous n'existez pas** ».

Le projet de loi promet de « définir la nation québécoise », mais plutôt que de décrire une société dynamique et multilingue au sein d'une province majoritairement francophone, il renforce ses trois lois les plus étroites d'esprit – la Loi 21 sur la laïcité, le projet de loi 84 sur l'identité et la Loi 96 sur la langue – en les soustrayant à toute contestation judiciaire, de sorte que leur place privilégiée dans cette « Constitution » les protège de tout recours judiciaire.

Ce projet de loi place les droits collectifs, la laïcité et la langue française au-dessus des droits de la personne. Il empêche également l'utilisation de l'argent des contribuables pour contester des lois devant les tribunaux, ce qui porte fondamentalement atteinte au principe démocratique selon lequel tout parti devrait pouvoir contester toute loi injuste.

Tous les droits, libertés et actions gouvernementales doivent être interprétés à travers le prisme des « droits collectifs de la nation québécoise », un concept défini arbitrairement par la législature québécoise. Cela crée une pyramide inversée des droits où le collectif l'emporte sur l'individu. La reconnaissance des droits collectifs n'a jamais été reconnue dans les traditions juridiques anglaise ou américaine. Cela crée un ordre juridique interne inattaquable, faisant de la Constitution québécoise l'arbitre final des droits et des responsabilités de l'État relevant de sa compétence, supplantant toute législation antérieure et future qui pourrait entrer en conflit avec ses dispositions.

Il convient de souligner que la Déclaration des droits de l'homme des Nations unies, rédigée par un grand Québécois, John Humphrey, ne reconnaît pas les droits collectifs. Elle commence ainsi : « Tous les êtres humains naissent libres et égaux en dignité et en droits. »

Cette loi consacre l'unilinguisme en attribut « national » fondamental. Elle désigne le français non seulement comme langue officielle, mais aussi comme **seule** langue commune, la présentant comme un élément fondamental de l'identité et de la culture du Québec. Elle élève la protection du français du statut de choix législatif à celui d'impératif quasi constitutionnel, en faisant le pilier central du caractère distinct de la « nation québécoise » que la Constitution est censée protéger. Une fois de plus, la langue de 1,25 million de Québécois anglophones est ignorée.

Cette législation comprend trois projets de loi présentés à l'Assemblée nationale :

- la Constitution du Québec ;
- la Loi sur l'autonomie constitutionnelle du Québec ;
- la Loi sur le Conseil constitutionnel.

Chacun d'entre eux comporte des éléments clairement inconstitutionnels, car ils dépassent les pouvoirs d'une province du Canada. En fait, contrairement à toute autre constitution véritablement nationale, il n'existe aucune formule d'amendement, de sorte que l'Assemblée nationale peut vraisemblablement apporter toute modification à la suite d'un simple vote majoritaire.

Le projet de loi 1 stipule que « le peuple québécois a, en fait et en droit, le droit à l'autodétermination. Il est titulaire des droits universellement reconnus en vertu du principe de l'égalité des droits et de l'autodétermination des peuples ». Les Nations Unies considèrent que l'autodétermination ne s'applique qu'aux États sous domination coloniale ou soumis à l'oppression. Est-ce que le ministre suggère que le Canada de Lafontaine, Laurier, Langevin, Lapointe, Vanier, Saint-Laurent, Laurendeau, Marchand, Lalonde, Pelletier, Trudeau et Chrétien est une puissance coloniale ?

La nouvelle « Constitution » déclare ensuite que « le peuple québécois a le droit inaliénable de décider librement du régime politique et du statut juridique du Québec », ce qui constitue un rejet flagrant de la décision rendue en 1998 par la Cour suprême, selon laquelle le Québec doit négocier les modalités de la souveraineté. Cette proposition bafoue également la Loi sur la clarté, qui insiste sur la nécessité d'une négociation à la suite d'un référendum avec une question claire et une majorité claire. : « Lorsque le peuple québécois est consulté par référendum... l'option gagnante consiste en..50 % des suffrages valablement exprimés plus un. »

Le mépris envers notre système fédéral transparait tout au long de ce projet de loi, qui qualifie le Canada de « fédération lâche d'États autonomes », rejette la monarchie, change le titre de lieutenant-gouverneur en « officier de l'État » et exige que des sénateurs et des juges de la Cour suprême soient nommés par le Québec.

Si plusieurs provinces (loi sur le Manitoba, loi sur l'Alberta et la Saskatchewan) ont eu leur propre constitution, il s'agissait d'un ensemble de lois promulguées depuis des temps immémoriaux, combinées à leurs propres statuts et conventions depuis la Confédération. Rien n'a été codifié ou précisé, à l'exception de l'initiative de la Colombie-Britannique il y a 30 ans et des conditions d'union de Terre-Neuve-et-Labrador en 1949.

Au Québec, des universitaires et des premiers ministres, tant indépendantistes que fédéralistes, ont plaidé en faveur d'une constitution écrite pour le Québec afin de souligner son autonomie et sa différence. Cependant, les libéraux, le Parti québécois et Québec solidaire ont tous voté contre le dépôt du projet de loi. Le Barreau du Québec l'a critiqué. Il est temps que cette législation soit mise de côté, considérablement modifiée ou jetée à la poubelle, là où est sa place.

Nous rappelons au gouvernement la dernière ligne de la Déclaration universelle des droits de l'homme : « Aucune disposition de la présente Déclaration ne peut être interprétée comme impliquant pour un État, un groupement ou un individu un droit quelconque de se livrer à une activité ou d'accomplir un acte visant à la destruction des droits et libertés qui y sont énoncés. » Cette loi échoue lamentablement à ce test.

3. Executive Summary

A committee of the Task Force on Linguistic Policy has read and analyzed Bill 1, the Government of Quebec's "Constitution" legislation, and determined it is a threat to all minority communities, but especially 1.25 million English speaking Quebecers. And it is a threat to Quebec's future in Canada.

Worst of all, with only a fleeting mention of “Anglophone institutions,” it fails to recognize the enormous contributions of English-speaking Quebecers for three centuries and more. Quebec's English-speaking community is far more than our institutions, as important as they are: it is flesh and blood people with rights across the length and breadth of Quebec; it is greatness personified in names like Redpath, Molson, Drummond, D’Arcy McGee, Galt, and others like Wilder Penfield, Frank Scott, Mavis Gallant, Hugh McLennan, The McGarrigle Sisters, Irving Layton and Leonard Cohen. Our community demands to be heard. Yet Minister Jolin-Barrette did not have the decency to consult us. This legislation sends a clear message to all non-francophones: **“you do not exist.”**

The bill promises to “define the Quebec nation,” but rather than describe a dynamic, multilingual society within a majority Francophone province, it entrenches its three most narrow-minded pieces of legislation – Bill 21 on secularism, Bill 84 on identity, and Bill 96 on language – outside challenges of the courts, so their privileged place in this “Constitution” protects them from judicial appeal.

This bill places collective rights, secularism and the French language above human rights. It also prevents the use of taxpayers’ dollars for court challenges, a fundamental undermining of democratic principles that any party should be able to challenge any unfair law.

All rights, freedoms, and government actions are to be interpreted through the lens of the "collective rights of the Quebec nation," a concept arbitrarily defined by the Quebec legislature. This creates an inverted pyramid of rights where the collective supersedes the individual. The recognition of collective rights has never been recognized as part of the English or American traditions of law. This creates an unassailable internal legal order, positioning the Quebec Constitution as the final arbiter of rights and state responsibilities within its jurisdiction, superseding all prior and future legislation that may conflict with its provisions

It should be underlined that The United Nations Declaration of Human Rights, written by a great Quebecer, John Peters Humphrey, does not recognize collective rights. It begins: “All human beings are born free and equal in dignity and rights.”

This law enshrines linguistic unilingualism as a core “national” attribute. It designates French not merely as an official language, but as the **only** common language, framing it as a foundational element of Quebec's identity and culture. It elevates the protection of French from a legislative choice to a quasi-constitutional imperative, making it the central pillar of the “Quebec nation's” distinct character that the constitution is designed to protect. Again, the language of 1.25 million English-speaking Quebecers is ignored. This legislation consists of three bills before the National Assembly:

- the Constitution of Québec;
- the Act respecting the constitutional autonomy of Québec;
- the Act respecting the *Conseil constitutionnel*.

Each one has elements that are clearly unconstitutional, as they are outside the powers of a province of Canada. In fact, unlike any other genuinely national constitution, there is no amending formula, so presumably any changes can be made by the National Assembly on a simple majority vote.

Bill 1 says “The Québec people has, in fact and in law, the right to self-determination. It is the holder of the rights universally recognized under the principle of equal rights and self-determination of peoples.” The United Nations identifies self-determination as coming into play only for states under colonial rule or subject to oppression. Is the minister suggesting the Canada of Lafontaine, Laurier, Langevin, Lapointe, Vanier, Saint-Laurent, Laurendeau, Marchand, Lalonde, Pelletier, Trudeau and Chrétien is a colonial power?

The new “Constitution” then declares “The Québec people has the inalienable right to freely decide the political system and legal status of Québec,” which is a blatant rejection of the Supreme Court ruling of 1998 on Quebec having to negotiate the terms of sovereignty. This legislation also flouts the federal Clarity Act, which insists on a negotiation following a referendum with a clear question and a clear majority: “When the Québec people is consulted by way of a referendum...the winning option is...50% of the valid votes cast plus one.”

The contempt for our federal system runs throughout this legislation, referring to Canada as a “loose federation of autonomous states,” rejecting the monarchy, changing the title of the Lieutenant-Governor to an “Officer of the State,” and demanding it name Senators and Supreme Court judges from Quebec.

While several provinces (the Manitoba Act, the Alberta and Saskatchewan Acts) have had their own constitutions, they were the collection of laws enacted since time immemorial, combined with their own statutes and conventions since Confederation. Nothing was codified or specified, except for British Columbia’s effort 30 years ago and Newfoundland and Labrador’s Terms of Union in 1949.

In Quebec, scholars and premiers, both indépendantiste and federalist, have advocated for a written Quebec Constitution to underline its autonomy and difference. However, the Liberals, Parti Québécois and Québec Solidaire all voted against tabling the bill. The Barreau de Quebec has criticized it. It is time this legislation be shelved, amended enormously or thrown in the recycling bin, where it belongs.

We remind the government of the last line of the Universal Declaration of Human Rights: “Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act **aimed at the destruction of any of the rights and freedoms set forth herein.**” This legislation fails that test abysmally.

4. Bill 1's objectives

Bill 1, the Québec Constitution Act, 2025 (“Bill 1”), is in fact the presentation of three separate laws for adoption by the National Assembly of Québec, namely:

- the Constitution of Québec;
- the Act respecting the constitutional autonomy of Québec; and
- the Act respecting the Conseil constitutionnel.

While distinct from each other, these three proposed laws must be understood collectively. Together, they form the basis for establishing Québec as a semi-autonomous part of Canada - or, more bluntly, as the proposed Constitution of Québec asserts (paraphrasing): the constitution of Québec as a federative state composed of autonomous states. Bill 1 describes Canada in a manner wholly different from the traditional understanding of a single country operating under a federal system. Rather, a central theme of the proposed Constitution of Québec is that Canada is composed of autonomous jurisdictions that have historically - but only temporarily - ceded part of their jurisdiction to the federal state.

The Constitution of Québec thematically presents a semi-homogenous society in which pluralism is minimized, and political, social, and cultural identity is rooted in participation in the common identity of Francophone Québec, which originated in New France and its subsequent evolution. The Constitution of Québec seeks to define Québec as a monolithic polity in which rights are hierarchical, with the collective rights of the Québec nation taking priority over individual rights and liberties.

All governmental, para-governmental, and other bodies - including the courts of justice - must interpret the Constitution of Québec consistently with its objectives regarding this hierarchy of rights and the identity of the nation.

The place of the English-speaking minority is barely acknowledged in Bill 1, appearing only in a brief reference in the preamble of the proposed Constitution of Québec.

The second component of Bill 1 establishes a permanent legislative process through which Québec seeks to accrete more jurisdiction and authority from the federal state. Unlike past ministerial or intergovernmental attempts to negotiate a distinct status for Québec, this part of Bill 1 presumes that Québec originally ceded authority to the federal state and now possesses the right to negotiate the recovery of part or all of that authority through recurring processes which shall occur annually and following every federal election.

The third component of Bill 1 creates the Conseil constitutionnel, an advisory body tasked with issuing non-judicial findings on federal initiatives and other federal matters that may encroach upon or affect Québec's autonomy.

Bill 1 is the clearest legislative statement to date that Québec will not only rely on political and social mechanisms to advocate for its specificity, but that its autonomy is legislatively recognized and must be protected, upheld, and advanced by all institutions of Québec society, as well as by the population at large.

Essentially, Bill 1 calls for the legislative creation of a nation-state in the traditional European sense; a polity defined by a population sharing common origins, culture, history, and background, with minority groups playing only a nominal role in its evolution.

5. Our objections

- a. **Court challenges:** The bill prohibits publicly funded bodies from using government money to challenge laws. The function is to starve opposition groups of financial resources, making it prohibitively expensive to mount court challenges against key government policies. It targets entities like school boards, effectively curtailing a primary avenue of legal accountability and ensuring the government faces less institutional resistance.
- b. **Failure to recognize the English-speaking community: Since time immemorial** English and French Quebecers have fallen in love, worked together, collaborated in politics and fought together in war. We don't hear enough of those stories of our past. Of what we all share. Instead, we hear of how we were the villains of Quebec history. It was nationalists exploiting language paranoia and public servants drafting and implementing extreme laws who caused divisions in our society.
- c. **Treatment of Quebec's English-speaking minority:** Premier Legault calls us "the best treated minority in the world." He should travel more, because I can name better treated minorities: the Swiss Romands, Belgian Waloons, Christians in India, Albanians in Macedonia, the Swedes in Finland and the Okinawans in Japan. And it is a truism that you don't improve the lot of one group by suppressing another. So, we deserve to be recognized, and respected. At 1.25 million people, we are more than five other provinces in Canada. And we are full citizens of this province.
- d. **The "Québec Constitution Act, 2025" is a radical and unconstitutional blueprint for provincial autonomy.** It is a blueprint for a controlled demolition of the existing federal system. It is a direct assault on the legal and constitutional foundations of Canada. The analysis confirms that this is not a legitimate constitutional project, but a political strategy designed to facilitate Quebec's departure from the Rest of Canada.

6. Legal issues: Sections that are Unconstitutional (Ultra Vires)

Bill 1 flouts federal authority at every juncture, and encroaches on federal jurisdiction in a series of sections that are clearly unconstitutional. In what is essentially a series of irresponsible gestures aimed at provoking the federal government, it repeatedly states untruths about the Constitutional structure and validity of Canada.

a. Preamble: The Constitution of Québec is the law of laws.

Comment: This is untrue. The Canadian Constitution takes precedence over all provincial and federal laws:

From the Constitution Act, 1982: Primacy of Constitution of Canada: 52 (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

b. Founding principles: The State derives its legitimacy from the will of the people inhabiting its territory.

Comment: Untrue: The existence of Quebec is due to the Canadian Constitution and Acts of the UK Parliament before that.

c. Act respecting the Constitutional Autonomy of Quebec:

- i. “As Québec’s political and institutional existence significantly predates that of the Canadian federal union.”

Comment: One could argue Quebec’s political traditions date back to 1763 (Royal Proclamation) or 1792 (the first legislature). But both were on much smaller territory, and both were a creation of Great Britain.

- ii. “AS the Canadian federal union constitutes an association of autonomous States founded on the sharing of the state function and state jurisdiction between two orders of government that are equal and not subordinate to one another.” Untrue.

Comment: Canada is not “an association of autonomous States”

Comment: There exists federal paramountcy, through the Peace, Order and Good Government clause. It is fairly simple: the residual powers rest with Ottawa. This is based on the doctrine of paramountcy, which establishes when there is a conflict between provincial and federal legislation, the federal legislation always prevails; there are several judicial precedents supporting it.

- iii. “AS the Constitution Act, 1982 was passed despite the formal opposition of Québec, which has always refused to adhere to it;”

Comment: Despite Opposition, Quebec has adhered to it, notably in the use of section 133 and the 1998 creation of secular school boards, which was done using the Constitutional amending formula as it was intended.

- iv. “AS the Constitution Act, 1982 violates the autonomy of the Québec nation and the sovereignty of the Parliament of Québec;”

Comment: No, it does not.

- v. “The Government may issue a directive to all or any of its departments and bodies regarding the preservation of the constitutional autonomy of Québec following a federal initiative that causes the federal State to intrude into an area under the constitutional jurisdiction of Québec, affects an element listed in section 14 or causes prejudice to Québec, in any way.”

Comment: This denies federal paramountcy and effectively declares Quebec an independent state.

- vi. “When a court is seized of a contestation based on both a right or freedom guaranteed by the Charter of human rights and freedoms (chapter C-12) and a right or freedom guaranteed by the Canadian Charter of Rights and Freedoms (Part I of Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom), it must conduct a separate analysis based on each of those Charters.”

Comment: This is outside the reach of the Quebec legislature and courts, as the final arbiter of Canadian law is the Supreme Court of Canada.

- vii. “The Gouvernement du Québec (the Government) is composed of the Conseil des ministres and the Officer of Québec.”

Comment: The post of Lieutenant Governor can not be changed, except by a Constitutional amendment agreed to by all 10 provinces.

- viii. **Appointments of Senators and Supreme Court judges by Quebec:** these appointments are within the constitutional purview of the federal government.

- ix. “**The Government may declare that Québec is not bound by an international commitment** or international agreement entered into by the federal government and pertaining to a matter under Québec’s jurisdiction where the Government considers that its participation in the negotiation of the commitment or agreement was insufficient.”

Comment: Quebec’s international role does not supersede the federal government’s.

7. Recommended Changes

- a. The Task Force on Linguistic Policy sees this bill as dangerous, unconstitutional and inconsistent with the Constitution of Canada and its Charter of Rights and Freedoms. **Any and all sections that are beyond the reach of the National Assembly should be withdrawn.**
- b. The Task Force, as a representative of the 1.25 million English-speaking Quebecers, demands recognition of the non-francophone community as builders, leaders, scientists, doctors, and enormous contributors to the growth of Quebec for the last three centuries. **A chapter of the law should be dedicated to this recognition.** If not, this legislation creates a structure of a purely ethnocentric “nation,” comparable to a 19th century nation-state, and not a dynamic, open society of the 21st century.

8. Conclusion

We in the Task Force are full-fledged, proud Quebecers and Canadians. We represent people who have just arrived in Quebec, and those who have been here since the first settlers and beyond to the beginning of time. We are the English-speaking community of Quebec, 1.25 million citizens. **Contrary to this flawed legislation, we do exist.**

We recognize and encourage the flourishing of French as the majority language in Quebec. But we stand with those who do not speak French: the elderly, visible minorities, the rural poor, the indigenous people, the physically and mentally challenged. These are the people who require government services. Many were not educated in Canada, and therefore could be denied government services according to Bill 96 and would be permanently discriminated against in Bill 1.

That is unfair, egregious, immoral and unconstitutional. It is not the Quebec that we know, and it is not the Quebec we see evolving into the future. Quebec will be a pariah in the western world by adopting such a fundamental law. And we will join in the criticisms of it until it is withdrawn.