

Summary of Impact Study 25EI2014

The Constitution and the English Language in Quebec: Education; The Primacy of the French Language; Collective Rights

By Michael N. Bergman and Katarina Daniels

In this study, the authors Michael N. Bergman and Katarina Daniels look at the impacts on the Anglophone communities in Quebec of recent announcements by the provincial government calling for a series of austerity measures. In Part 1 of the study, the authors explore school board rights through a legislative and judicial history of section 23 of the *Canadian Charter of Rights and Freedoms (Charter)*. They continue their analysis by examining whether the austerity measures proposed by the Quebec Minister of Education are in violation of the Constitutional protections of minority language groups under section 23 of the *Charter*, especially the Minister's plan to amalgamate the Riverside, New Frontiers and Eastern Townships school boards, as well as the call for the abolishment of school board elections.

In Part II, the authors look at the constitutionality of legislation supporting the supremacy of the French language over all other rights in Quebec, should such legislation ever come into existence. They start by offering an overview of *Charter*-based challenges of the *Charter of the French Language (CFL)*, and then explore how the unwritten constitutional principle of "respect for minorities" can be used to invalidate laws affirming the the supremacy of the French language in Quebec.

In Part III, the authors discuss the concept of "Anglophone collective rights" as a solution to reinforce language rights for the Anglophone minority in Quebec. They argue that, although section 23 of the *Charter* should offer some form of collective rights to minority language communities, the Supreme Court of Canada appears to intentionally avoid granting "collective" language rights to the Anglophone minority in Quebec.