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The Effects of Section 23 of the Canadian Charter of Rights and Freedoms on Shaping Official Language Minority Communities Educational Rights: A Case Study of the Francophone Minority Community in Alberta

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Abstract

The issue of Official Language Minority Community (OLMC) educational rights in Canada is one that has been hotly debated over the past half century. Is the provision of rights guaranteed under Section 23 of the Canadian Charter of Rights and Freedoms an effective way of protecting these minority communities? If so, what are the positive effects on the communities as a result of these protected group rights? This research intends to investigate these questions from a thematic and integrated perspective utilizing the disciplines of political science, law, and sociology. In addition to this qualitative analysis, there is a detailed case study analysis of the experiences of the Francophone minority community in Alberta, who used Section 23 to obtain their constitutional rights. This analysis expressly shows that Section 23 of the Charter dramatically and positively affects the OLMC's access to education in their own language, bolsters the identity of these communities, and aids in their growth and development in the future. Going forward, this research can join with similar studies to solidify the fact that minority right protections, through legal and legislative means, can have a significantly positive effect on minority communities' identity and well-being.

Keywords: Official Language Minority Communities, Canadian Charter of Rights and Freedoms, rights, minorities, Francophones, Franco-Albertans

Introduction

For centuries before its confederation to present day, the Federation of Canada has been faced with a balancing act regarding the linguistic rights and bicultural nature of two of its founding nations — the other founding nations being the indigenous peoples of Canada, who currently have no constitutional language rights. The French and English founders and leaders of this nation have had to work through countless conflicts, ranging from violent wars to simple issues of representation, throughout our history as a country; and for the most part, compromise and the ideals of equality, linguistic duality, and peace have prevailed. It is through those instances of compromise that Canada enacted its Official Languages Act in 1969, recognizing French and English as official languages, and it is this act that

was eventually enshrined in the constitutional status with the patriation of our constitution from Great Britain and the introduction and establishment of the Canadian Charter of Rights and Freedoms (the Charter) in 1982 (Foucher, 2007; Allaire, 2007; Aippersbach, 2011). By establishing constitutional language rights, Canada ensured that its two official languages would continue to have equal and formal protection within policy and the law.

Further, the drafters of the Charter, being the leaders of the nation and its provinces, realized the importance of Canada's Official Language Minority Communities (OLMCs) that were spread throughout the country. Within Canada, OLMCs are recognized as Francophone communities outside of Quebec and the Anglophone community within Quebec (Johnson & Doucet, 2006). Within these communities was an urgency to ensure that they were able to continue to thrive and be vital parts of the larger majority, while still retaining their very unique and identifiable language and culture. One way to ensure that language and culture not only thrive in a minority situation, but are also protected in the future, is to make sure that education, along with its control and management, remains within that linguistic group (Thériault, 2007). Therefore, Section 23¹ was added to the Charter to provide constitutional protection for OLMCs within the jurisdiction of education, essentially ensuring that, where numbers warranted, the OLMCs would have publicly funded primary and secondary educational facilities that were to be managed and controlled by the communities themselves.

The intent of this article is to investigate the issue of OLMC linguistic and educational rights, as situated within the stated conceptualization of Section 23, from the integrated perspectives of political science, law, and sociology. What makes this research unique, beyond its integrated nature, is the fact that while the Charter and its constitutional linguistic protections were drafted within a federal context, the jurisdiction of education is within the provincial purview, therefore making the practical enactment of Section 23 challenging and complicated for OLMCs across the country. One of these communities, *Franco-Albertains*, that struggled for years to have its rights recognized by Alberta, eventually took the province to the Supreme Court of Canada to have the issue of OLMC educational rights settled. This article, therefore, asks the question: How has the introduction of the Canadian Charter of Rights and Freedoms, specifically Section 23, positively impacted the Canadian Official Language Minority Community rights among Francophones living in Alberta insofar as they interact with provincial public educational institutions? Based on this question, I intend to show through in-depth qualitative analysis of the relevant secondary data and themes within it, from the disciplines of political science, law, and sociology, and a detailed qualitative case study analysis of the lived experience of the *Franco-Albertain* community, that Section 23 of the Charter had a demonstrably positive effect on the educational rights of OLMCs in terms of having publicly funded primary and secondary education in their own official language. Section 23 of the Charter was also the key mechanism used by OLMCs to secure those rights through the courts and aided in the growth and well-being of the minority community and its identity.

By highlighting the positive effects of such a substantial constitutional document as the Charter can have on protecting minority rights, it is the hope of this research that this examination can continue to solidify the already existing data that shows that constitutionally protecting minorities is incredibly beneficial for their collective identity and well-being, and can enable their community to be more active and engaging in society (Johnson & Doucet, 2006; O'Keefe, 2001). From a Canadian perspective, what this research intends to show is that entrenching language and educational rights for official linguistic minority communities has enabled them to grow and foster their community, for example, through higher education and active community groups, even in places such as Alberta, where the number of OLMCs is not substantial compared to other regions in the country (Fortier, 1994; Commissioner of Official Languages, 2010). This situation in Alberta, by and large, has enabled the *Franco-Albertain* culture to sustain itself

and ensure its survival in an otherwise assimilating environment, while strengthening its rights and helping to ensure the continuation of the *Franco-Canadien* culture throughout Canada (Iacovino & Léger, 2013; Fortier, 1994).

¹Appendix - Section 23 of the Canadian Charter of Rights and Freedoms

Background and Theory – The Integration of Political Science, Law, and Sociology

It is not a surprise to those with a rudimentary knowledge of Canadian politics that the issue of official language minority rights, both in language and education, has been contentious between Canada's official language groups and various governments for decades. Without constitutional protections, there was very little OLMCs could do to ensure the protection of their communities and identities against the strength of their respective provincial majorities (Fortier, 1994); "French-speaking minorities of the provinces and territories tend to see the history of the last thirty years as an uphill struggle against recalcitrant provincial majorities who never fully responded to their needs" (Churchill, 1998, p. 30), and it was only through continued pressure and hard work by OLMCs across the country that they were able to lobby the federal government to ensure educational protections were included in the new constitution (Behiels, 2004; Riddell, 2003). Stemming from this conflict, certain themes arise when examined in light of political science, law, and sociology. This next section examines, compares, and contrasts those specific themes, relying on theoretical perspectives to gain a greater picture as to why Section 23 was so crucial for OLMCs across Canada.

Throughout the secondary data examined regarding the question of the impact of Section 23 on OLMCs, there were certain theoretical themes that emerged and coincided throughout each discipline. When researching both the legal and political perspectives on this issue, the theory and concept of rights, both collective and individual, continued to be raised, as well as how they affected the legal interpretation of educational, language, and minority rights, and the resultant legislation. Therefore, it is imperative to examine how these concepts integrate with each other and affect the interpretation and decision making of government and the courts. Other than individual or collective, there are numerous additional categorizations of rights, but due to the scope of this examination the previously mentioned two overarching categories are the focus. Individual rights are defined as "a claim every person may make simply by virtue of being a person, or more restrictively, a citizen of a particular community or state" (MacMillan, 1998, p. 23); this could be, for example, the right to freedom of expression or speech. The primary focus of this research examines the concepts of language, education, and minority rights, and while there have been arguments supporting the idea that these rights could fall within the purview of individual rights, there is a stronger, and perhaps more convincing, argument that these would fall under the category of collective or group rights (MacMillan, 1998).

A collective, or group, right is a "right belonging to a group characterized by internal cohesiveness, enduring ties, and a strong commitment to the survival of the group" (MacMillan, 1998, p. 24). Seymour (2012) expands on this concept by noting "the interests of these collectives are raised to the level of rights when the objectives of said interests' play an important role in the maintenance or development of the collectives' institutional identity"² (p. 20). To further strengthen the argument that the rights discussed in this research, specifically OLMCs' rights to education in their own language, are identified as collective, we can look to the qualifications that are included in Section 23 regarding specific numbers. If these language and educational rights were individual, then the qualification — 'where numbers warrant' — would not be included. In other words, "not every individual, then, is in a position to claim these rights. They must be group rights in that they require the presence of a group to be available" (MacMillan, 1998, p.

30). Moreover, it is important to understand that without language there would be no community itself, and thus no need for specific educational instruction in that language whatsoever.

Consequently, there is no community, or group, without the language it speaks, and therefore, "it is unthinkable that one could have an entitlement to a language in the absence of a community of individuals with whom the language is shared" (MacMillan, 1998, p. 31). Using this conceptualization of language and group rights, this idea has been solidified in Canadian legislation and jurisprudence through the entrenchment of language rights and OLMCs' educational rights in the Charter and the Charter's resultant interpretation by the Supreme Court of Canada (Couture, 2008). The reason this classification is so important is because it links the idea of collective rights and their protection, through constitutional, legal, and legislative means, to the well-being and support for the collective group, in this case a collective group in a minority situation. Therefore, one of the ultimate goals of collective rights, especially for minority communities, is to establish such "a right, which can be the subject of legislative measures, or even long lasting constitutionalization, and have not only a preventative characteristic, but affirmative also"³ (Seymour, 2012, p. 22). This situation can then lead to providing longstanding protection in the face of changing policy.

Moving forward, it can be argued that Section 23 of the Charter was clearly intended to be an important protector of language, education, and minority rights. Bergeron (2007) notes that "this clause [Section 23] encourages the creation of a new educational system that will better respond to the requirements to maintain and develop a minority community" (p. 376), providing it with support to thrive and be used as a protector for OLMCs (Foucher, 2007; MacMillan & Tatalovich, 2003). It is through the Charter's recognition as vitally important to Canadian society, and OLMCs, that Section 23 has been interpreted as more than simply a language right on its own. "Courts have acknowledged the important link between language and culture and have interpreted Section 23 ... to maintain and support a linguistic group and its culture in provinces where that language and culture is in a minority setting" (Foucher, 2007, p. 61). Therefore, it is based on this assessment by the courts that additional policy and legislation have been developed to enhance the viability of OLMCs within federal and provincial jurisdictions, including federal assurances to actively support the vitality of OLMCs (O'Keefe, 2001; Johnson & Doucet, 2006; Theriault, 2007).

Because of the changes instituted by Section 23, and the important minority community protection it offered, it is argued that "Section 23 has been and still is the most important constitutional right in the Charter, since school is the first and foremost institution where language and culture can be transmitted" (Foucher, 2007, p. 61). As to solidify the importance of language rights, and the role Section 23 plays within those rights, the Supreme Court of Canada ruled in its *Manitoba Language Reference* the importance of language rights to foster the essential growth and development of humanity and its dignity (MacMillan & Tatalovich, 2003). The court went on to say the following:

"Language bridges the gap between isolation and community, allowing humans to delineate the rights and duties they hold in respect of one another, and thus to live in society... Language rights were judged to be foundational elements of self-identity, citizenship, and community." (MacMillan & Tatalovich, 2003, p. 242)

The last point made, which is essential to this discussion and its integrated nature, is the concept of rights, and the policy and legislation that flow from them, which build the foundation for a thriving minority community identity, and therefore, citizenship within a society. By enabling OLMCs to self-identify as part of a protected and important class

within Canadian society, the government and legislatures, as then interpreted by the courts, provided OLMCs with a strong opportunity to solidify their group identity and community, and therefore, to thrive.

Conceptually, there is much to be said regarding minority identity and communities from a sociological perspective. Even more specifically, the secondary data sheds light on this theme from a Canadian perspective of language rights and OLMCs. The well-known Canadian political philosopher, Will Kymlicka, has discussed the concept of minority group identity and the establishment of rights to protect those minority communities within a larger majority community (Iacovino & Leger, 2013; Theriault, 2007). Further, Kymlicka has established theory regarding the concept of national minorities, stemming from his understanding of the Canadian perspective and our two official language groups (Iacovino & Leger, 2013; Theriault, 2007). Based on Kymlicka's theoretical understanding, OLMCs have been identified as particular in their place within the Canadian multicultural mosaic. OLMCs can be described as "national minorities [that] are distinct from ethnic groups to the extent that the first have access to a societal culture, whereas the second seek integration into an existing societal culture... [thus, these] national minorities seek self-government rights" (Iacovino & Leger, 2013, p. 97-98) to ensure their viability.

Minority communities, especially those in national minority situations, have the additional challenge of obtaining and maintaining group rights and fostering a thriving identity that sustains their community. OLMCs in Canada have the specific desire to be recognized as members of their national and provincial societies, not only as a particular language group, but also as founding members of their nation. They are "a community with shared history, which seeks to be recognized as a national community built on liberal and civic values" (Theriault, 2007, p. 256), as the national majority would be identified (Churchill, 2008). This recognition for national minorities, OLMCs specifically, can come in many forms; one of the most powerful for OLMCs was the constitutionalization of their educational and language rights as enshrined in Section 23 of the Charter. National minorities can struggle with feelings of inferiority and powerlessness when it comes to interactions and comparisons with the majority; thus, legislative and legal means can be warranted to build confidence and strength within these communities (Pilote & Magnan, 2012; Churchill, 2008). Therefore, "strengthening the community identity would be a necessary element within the request for political recognition, [which] can lead to a greater participation and empowerment of the community"⁴ (Chouinard, 2012, p. 204). Furthermore, this perspective solidifies the argument that through political understanding and acceptance a national minority community can grow to its potential (Chouinard, 2012).

Specifically, when we discuss the identity concerns that stem from OLMCs, educational rights play a key role. Education is one of the tools in a society that is used to create, develop, and enrich the community, especially when regarding the enhancement of language. Because of the threat of assimilation into the larger English community and the high rates of bilingualism within many OLMCs, education in one's language and control of educational institutions by the community are essential to the confidence of the minority group and use of their mother tongue over generations (Freyne & Clement, 2015). These institutions, therefore, "ensure the integration of individuals into society and maintain social stability through the transmission of collective values"⁵ (Pilote & Mangan, 2008, p. 52), and it is these collective values which, hand in hand with language and culture, form a community. Accordingly, it is this community, or group, which Section 23 and various legislative and legal bodies have determined to protect and strengthen, knowing full well this protection would have a profoundly positive effect on the vitality of OLMCs, as is shown in the case study of Franco-Albertains in the following section (Fraser, 2013).

²All translations from French are the author's own. «Les intérêts de ces collectivités se hissent au niveau de droits lorsque l'objet de l'intérêt joue un rôle important dans le maintien ou le développement de l'identité institutionnelle de la collectivité. »

³« Il s'agit d'un droit qui doit faire l'objet de mesures législatives, voire d'une constitutionnalisation qui prévaut à long terme et qui a un caractère affirmatif et non seulement préventif. »

⁴« En effet, la force de l'identité d'une communauté serait un élément nécessaire ou même préalable à la demande de reconnaissance politique, laquelle peut ensuite mener à une plus grande participation se traduisant soit par l'intégration de la communauté, soit par son autonomisation. »

⁵« ...l'institution scolaire vise à assurer l'intégration des individus à la société et le maintien de la stabilité sociale à travers la transmission de valeurs collectives. »

Case Study: *Franco-Albertains* and their Struggle for their Section 23 Rights

The case of *Franco-Albertains* was chosen for its unique situation in light of OLMCs across Canada and was found to be a particularly fitting choice to examine the practical effects of the implementation of Section 23 of the Charter and the resultant waves in the *Franco-Albertain* community. The Franco-Albertains community is unique in the sense that it is situated in a highly Anglophone province, which has a history of restricting access to French-language education and communities, and it is the community that eventually brought its own province to the Supreme Court of Canada to demand their Charter rights be implemented (Cardinal, Lapointe, & Theriault, 1994; Clement, 2013).

For the purposes of this research and due to space constraints, this case study begins in the 1980s prior to the implementation of the Charter and repatriation of the Canadian Constitution. *Franco-Albertains* at the time had limited options in terms of educating their community in French. Bergeron states:

“French-speaking children in the province of Alberta were attending French immersion schools with a curriculum designed for Anglophones and managed by Anglophone school boards” (2007, p. 376).

By examining other OLMCs across the country, and due to an influx of Francophones from Quebec into Alberta's biggest cities, rumblings began in the Francophone community for more access to, and control of, their French education (Behiels, 2004). The Alberta government resisted addressing the issue, stating that they “expressed a commitment to accelerate the development of the French-language programs,” (Riddell, 2003, p.29) but at the same time:

would continue to leave French language programs open to students whose mother tongue was not French, that French language instruction would not be given special status over other minority-language instruction, and that school boards would retain autonomy over whether to offer French-language programs. (Riddell, 2003, p. 29)

This attitude towards OLMCs became increasingly unacceptable to the *Franco-Albertain* national minority, and the community began to pressure local Francophone groups and the Ministry of Education to make a change. The provincial government did not move on the issue of Francophone education and school boards, but thankfully for the Albertan OLMC, the federal government instituted a major tool for them to use, Section 23 of the new Canadian Charter of Rights and Freedoms.

While outside of the specific scope of this examination, it is important to mention some of the conversations that occurred between the provinces, the federal government, and local interest groups as the Charter was being formulated. Section 23, and discussions regarding this section, played a major role during that time with various options to protect language rights in Canada and ensure the vitality of OLMCs. Due to the many strong provincial voices at the table and the varying language situations across the regions of the country, the federal government reached to a compromise that seemed to settle the concerns of most parties (Behiels, 2004). Instead of demanding that all the provinces accept official bilingualism, the federal government opted to protect OLMCs and their educational rights (Behiels, 2004). The Justice Minister at the time, Jean Chretien, stated that he:

felt very strongly that the most acute problem is always education. When you cannot send your kids to your mother language schools, official language schools, it is very difficult, especially...for French-speaking families outside Quebec to keep the language in the family. (as cited in Behiels, 2004, p. 69)

Therefore, despite opposition from some provinces that claimed Section 23 encroached on their provincial jurisdiction of education on the one side, and language groups claiming that nothing despite official bilingualism was good enough on the other side, Section 23 was constitutionally entrenched protecting OLMCs and their families (Behiels, 2004).

Having been given the exact tool needed to ensure their vitality, and to actively solidify their educational rights protected by the constitution, *Franco-Albertains* began to take action with the Alberta government to discuss the establishment of Francophone run educational institutions. Realizing very quickly that the Alberta government was not going to budge on the issue of Francophone run school boards and educational institutions, and lacking any significant will from a majority of the *Franco-Albertain* community who did not want to rock the boat any further after a very contentious few years of constitutional wrangling, a small group of Francophone parents, who called themselves the Association Bugnet, decided their only option was to take the Alberta government to court (Behiels, 2004; Riddell, 2004). Through the help of the Court Challenges Program, established by the federal government to provide funding for court action to gain rights guaranteed under the Charter, the Association Bugnet and its leaders, "Jean-Claud Mahé, Angeline Martel, and Paul Dubé, launched proceedings in the Court of Queen's Bench of Alberta in October 1983 to obtain recognition of the right of Franco-Albertain parents to French language education for their children and school governance" (Behiels, 2004, p. 153; Hudon, 2011). Almost two years later, the case was heard before the trial judge, by which time the major *Franco-Albertain* group, the Association of Francophone-Canadians of Alberta (ACFA), had reconsidered its position and joined the case with the backing of the federal government (Riddell, 2004). The ruling was favourable for *Franco-Albertains*, with Judge Purvis ruling:

"French-language instruction was mandatory where numbers warranted. He also argued that Section 23 grants a certain degree of management and control to Section 23 parents, but he did not make any formal order requiring the government or the school board to provide for such management and control." (Riddell, 2004, p. 590)

Further, the judge noted he would not tolerate any other delays by the Alberta government in implementing the guaranteed rights for OLMCs that were protected in the Charter.

Despite the positive ruling, the Association Bugnet was not satisfied, as they argued that Section 23 guaranteed that they have management and control over their own school boards, which was not expressly mandated in the ruling. Moreover, the Alberta government viewed the judge's decision as a win for them as well, with the education minister emphasizing "the judge's endorsement of the government's actions, as well as the latitude that his ruling granted it

to fashion a made in Alberta solution" (Behiels, 2004, p. 155). Seen as unacceptable to both the Association Bugnet and the ACFA, the decision was appealed to the Alberta Court of Appeal in 1986. The Alberta Court of Appeal judge gave, what some may call, a muddied response. While the ruling did state, based on numbers warranting, distinct Francophone school boards may be required, Edmonton parents were not denied their rights due to already established schools within that community. In contrast, Judge Kerans also stated "Alberta's legislative scheme did not contravene Section 23 even if it did not necessarily implement section 23" (Riddell, 2004, p. 590). In addition to these facts, there was a disagreement between the trial judge and appeals judge in regards to the issue of minority language education rights protected under Section 23, and this part of the case exposed how difficult the interpretation of these rights really were.

Judge Purvis, the trial judge, indicated that a sliding scale approach was needed when it came to school governance. Essentially, if the numbers were there, the ability to manage increased accordingly, to complete and independent governance (Behiels, 2004). Compared to the Alberta Court of Appeal, which "posited a theory of no governance versus complete governance, with the province having the power to decide when each would apply and the nature of its institutional form" (Behiels, 2004, p. 159), not only did this disagreement expose a need for clarification, but the Association Bugnet and the *Franco-Albertain* community were not satisfied with the Appeal Court's decision and the lack of action by the Alberta Government. They were left with only one option: to have the Supreme Court of Canada settle the issue, and in June 1989, hearings began in the landmark *Mahé v. Alberta* case, which would clarify Section 23 of the Charter going forward.

On March 15, 1990 the Supreme Court of Canada ruled unanimously. Its decision was precise and to the point, and clarified all the questions that had been hotly debated over the past decade. There were two questions at issue for the court to decide: does Section 23 include, when numbers warrant, the right to management and control? And, if so, do the numbers in Edmonton meet this requirement (Behiels, 2004)? Answering the first question, the court ruled that:

section 23 was remedial in nature and was designed to preserve and promote minority language and culture throughout Canada, [and therefore] section 23 rights should be viewed on a 'sliding scale', with the right to instruction at one end and the right to management and control at the other. (Riddell, 2004, p. 592)

It was this caveat 'where numbers warrant' that would be the determining factor for the sliding scale, and those numbers would be based on demand for services, costing factors, regional considerations, and pedagogical concerns (Riddell, 2004). The court also determined, based on its sliding scale interpretation, that numbers did indeed warrant a Francophone school in Edmonton, but not a school board. Instead parents could be proportionally represented on the current school board (Riddell, 2004; Behiels, 2004). Finally, in an effort to clear the confusion, the Supreme Court instructed Alberta to begin amending its legislation to correctly implement Section 23 per its ruling (Riddell, 2004; Behiels, 2004).

It is no surprise that the ruling was a big win for the *Franco-Albertain* community, and while they were slightly perturbed because the Supreme Court had not initiated a time frame for the Alberta government to act, overall they knew the ruling was a massive move in the right direction. The final challenge they faced was the actual implementation of the ruling in their home province. Amending the respective legislation and establishing school boards would be significant work, but with the Alberta government now cooperating, the work began with the

establishment of a committee that would study the best way to move forward and consult with various stakeholders on Francophone school governance (Riddell, 2004; Bergeron, 2007; Behiels, 2004). With the Supreme Court issuing its ruling in 1990, it would be three years before Alberta would finally abide by its constitutional duties by passing Bill 8, the School Amendment Act, in 1993 (Behiels, 2004). This legislation “created a series of Francophone school boards that covered certain parts of the province and vested exclusive control over French School and FFL [French as First Language] programs with those boards” (Riddell, 2004, p. 593). After decades of hard work and patience, the Franco-Albertain community had management and control over its own educational facilities, in French, in Alberta (Behiels, 2004; Couture, 2008).

Discussion and Conclusion

Over time, the Alberta government and the people of Alberta have come to understand the importance their OLMC brings to the diversity of their province. With the continued adaptation of the Section 23 inspired legislation, Alberta has now “recognized the unique place of French-Language education in the multicultural milieu owing to the constitutional rights entrenched in the Charter” (Riddell, 2003, p. 35). Based on some of the most recent information, there are currently 34 Francophone Schools in the province, managed by 5 regional Francophone school boards as well as the *Faculté St. Jean* at the University of Alberta, which provides post-secondary study in French (Vaillancourt, Coche, Cadieux, & Ronson, 2012; Commissioner of Official Languages, 2010). This information, along with statistics from Statistics Canada, show that enrolment in regular French Language programs have been increasing in Alberta, and this statistic truly expresses how meaningful and effective Section 23 was in securing *Franco-Albertains* their rights in their home province (Chavez, Bouchard-Coulombe, & Lepage, 2011).

There is no doubt that Section 23 was instrumental in obtaining minority language educational rights for OLMCs across the country, and especially for the community in Alberta. The *Mahé* case set a precedent for all other provinces in the country that had not yet followed through on their Section 23 constitutional obligations, and therefore, it is evident today that all OLMCs across the country have access to their own educational institutions in their own official language (Vaillancourt *et al.*, 2012). Riddell states “Although post-Charter OMLE [Official Minority Language Education] policy change was often slow and incremental... it is clear that there has been an almost inconceivable transformation of minority education for Francophones since the Charter was introduced in 1982” (2003, p. 36). This point could not be said any more succinctly, and as demonstrated through this paper and case study analysis, Section 23 of the Charter was a significantly positive tool for OLMCs in Canada, allowing OLMCs to enhance their minority community identity through the solidification of their group rights.

Further, some potentially divergent issues can arise when integrating the disciplines of political science, law, and sociology. However, in terms of the research question at hand — the concept of group rights and minority communities and identities, as well as the effect of Section 23 on those rights and communities — there was little divergence between the disciplines. The integration of these academic fields flowed smoothly and complemented each other throughout the research, with political science and law emphasizing the concept of rights and how to legislate and protect them, and sociology highlighting minorities, their identity concerns, and how these rights can protect minority communities. This created the perfect stage for an interdisciplinary research project, which did not present any significant challenges both in the research and analysis stages. Instead, the research accomplished its intended goals and was able to articulate the key points needed when examining such a complex issue. This integration was not a surprise to the researcher, but at the same time, not expected, and therefore a welcome finding at the completion of the investigation.

In conclusion, it is the true expression of our identity and diversity that defines us as a community, and a major part of that expression comes through language. Thankfully, through compromise, the Canadian dynamic has been able to grant rights to ensure that each of its linguistic groups, whether minority or majority, thrive within its society. This research set out to examine whether Section 23 of the Charter had a resounding effect on the minority language education rights of OLMCs by using the Francophone community of Alberta as a case study to analyze. It was argued that Section 23 had a demonstrably positive effect, overwhelmingly so. Not only did Section 23 provide the tool for OLMCs to solidify their rights to education through the courts, but this tool also allowed them the opportunity to develop the infrastructure that could grow and sustain their communities for generations. The question remains, within the Canadian multicultural context, whether OLMCs can adapt to the changing demographics across the country and possibly integrate other French speaking identities into their minority communities, which is crucial if they intend to remain viable. There is also the question of French as a second language speakers playing a role, adding to OLMCs, and aiding them in their growth, serving as allies to bridge the gap between Canada's *deux solitudes*. Only time will tell what the future holds for OLMCs across the country, but thanks to Section 23, and these communities' tireless efforts, they have the tools in hand, and the prospects look promising.

Appendix – Section 23 of the Canadian Charter of Rights and Freedoms (1982)

23.(1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or (b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province.

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

(a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and (b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

References

- Aippersbach, C. (2011). Constitutionally Protected Minority Official Language Rights in Canada. *Law Now*, 31-36.
- Allaire, G. (2007). From "Nouvelle-France" to "Francophonie canadienne": A historical survey. *International Journal of the Sociology of Language*, 25-52.
- Behiels, M. D. (2004). *Canada's Francophone minority communities: constitutional renewal and the winning of school governance*. Montreal; Ithaca, N.Y.: McGill-Queen's University Press.

- Bergeron, J. (2007). Francophone minorities: From a homogeneous representation to the construction of a plural identity. *American Review of Canadian Studies*, 371-385.
- Canadian Charter of Rights and Freedoms, s. 2. (1982, c 11). being Schedule B to the Canada Act 1982 (UK).
- Cardinal, L., Lapointe, J., & Theriault, J. Y. (1994). *L'état de la recherche sur les communautés francophones hors-Québec: 1980-1990*. Ottawa: CRCCF.
- Chavez, B., Bouchard-Coulombe, C., & Lepage, J.-F. (2011). *Portrait of official-language minorities in Canada: Francophones in Alberta*. Ottawa: Statistics Canada.
- Chouinard, S. (2012). Quel avenir pour le projet autonomiste des communautés francophones en situation minoritaire ? Réflexion sur les politiques publiques canadiennes en matière de langues officielles. *Minorités linguistiques et société / Linguistic Minorities and Society*, 195-213.
- Churchill, S. (1998). *Official Languages in Canada: Changing the Language Landscape*. Ottawa: Canadian Heritage/Patrimoine canadien.
- Churchill, S. (2008). MINORITY FRANCOPHONE YOUTH AND THE FUTURE. *Canadian Issues / Thèmes Canadiens*, 40-43.
- Clement, D. (2013). Alberta's rights revolution. *British Journal of Canadian Studies*, 59-76.
- Commissioner of Official Languages. (2010). *Vitality Indicators for Official Language Minority Communities 3: Three Francophone Communities in Western Canada: The Calgary Francophone Community*. Ottawa: Office of the Commissioner of Official Languages.
- Couture, C. (2008). MINORITÉS DE LANGUE OFFICIELLE: LE CAS ALBERTAIN. *Canadian Issues / Thèmes Canadiens*, 44-49.
- Direction de l'éducation française. (2001). *Affirming Francophone Education: Foundations and Directions. A Framework for French First Language Education in Alberta = Affirmer l'éducation en français langue première: fondements et orientations. Le cadre de l'éducation francophone en Alberta*. Edmonton: Alberta Learning.
- Ducharme, J.-C. (1996). *Minority-Language Educational Rights: The Implementation of Section 23 of the "Canadian Charter of Rights and Freedoms"*. Canadian Heritage.
- Fortier, D. (1994). Official languages policies in Canada: A quiet revolution. *International Journal of the Sociology of Language*, 69-97.
- Foucher, P. (2007). Legal environment of official languages in Canada. *International Journal of the Sociology of Language*, 53-69.
- Fraser, G. (2013). Checking Our Constitution @30: The Influence of the Canadian Constitution and the Charter of Rights and Freedoms, and Metaphors of Growth. *Canadian Issues/Thèmes Canadiens*, 12-15.
- Freynt, N., & Clement, R. (2015). Bilingualism in minority settings in Canada: Integration or assimilation? *International Journal of Intercultural Relations*, 55-72.
- Hudon, M.-E. (2011). *Official Languages in Canada: Federal Policy*. Ottawa: Library of Parliament.
- Iacovino, R., & Leger, R. (2013). Francophone Minority Communities and Immigrant Integration in Canada: Rethinking the Normative Foundations. *Canadian Ethnic Studies/Etudes ethniques au Canada*, 95-114.
- Johnson, M. L., & Doucet, P. (2006). *A Sharper View: Evaluating the Vitality of Official Language Minority Communities*. Ottawa: Minister of Public Works and Government Services Canada.
- MacMillan, C. (1998). *The Practice of Language Rights in Canada*. Toronto: University of Toronto Press.
- O'Keefe, M. (2001). *New Canadian Perspectives — Francophone Minorities: Assimilation and Community Vitality*. Ottawa: Department of Canadian Heritage.

- Pilote, A., & Magnan, M.-O. (2008). L'ÉDUCATION DANS LE CADRE DE LA DUALITÉ LINGUISTIQUE CANADIENNE. QUELS DÉFIS POUR LES COMMUNAUTÉS EN SITUATION MINORITAIRE? *Canadian Issues / Thèmes Canadiens*, 47-63.
- Pilote, A., & Magnan, M.-O. (2012). La construction identitaire des jeunes francophones en situation minoritaire au Canada: Négociation des frontières linguistiques au fil du parcours universitaire et de la mobilité géographique. *Canadian Journal of Sociology/Cahiers canadiens de sociologie*, 169-195.
- Richard, J. (1993). The quest for all-French schools in Alberta: A quixotic struggle? *Canadian Ethnic Studies*.
- Riddell, T. Q. (2003). Official minority-language education policy outside Quebec: The impact of section 23 of the Charter and judicial decisions. *Canadian Public Administration/Administration publique du Canada*, 27-49.
- Riddell, T. Q. (2004). The Impact of Legal Mobilization and Judicial Decisions: The Case of Official Minority-Language Education Policy in Canada for Francophones Outside Quebec. *Law & Society Reviews*, 583-608.
- Seymour, M. (2012). Les droits collectifs des communautés de langue officielle en situation minoritaire au Canada. *Minorités linguistiques et société / Linguistic Minorities and Society*, 18-36.
- Theriault, J. Y. (2007). Ethnolinguistic minorities and national integration in Canada. *International Journal of the Sociology of Language*, 255-263.
- Vaillancourt, F., Coche, O., Cadieux, M. A., & Ronson, J. L. (2012). *Official Language Policies of the Canadian Provinces: Costs and Benefits in 2006*. Vancouver, B.C.: Fraser Institute.