



International symposium

Scotland, Wales, Catalonia, Québec : Legal Identities in Evolving Nations

Building a Constitutional Identity for Scotland, Wales, Catalonia and Québec

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International symposium

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OUTLINE

I- Shaping Legal Identities of Evolving Nations through Constitution-making

A- The absence of constitutional identity of Scotland, Wales, Catalonia and Québec

B- Defining a constitutional identity in drafting a written constitution

II- Defining Québec's Constitutional Identity by a *Québec Constitution*

A- The *Québec Identity Act* (Bill 195)

B- A Draft *Québec Constitution* (Bill 196)

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I- Shaping Legal Identities of Evolving Nations through Constitution making

A- The Absence of Constitutional identity of Scotland, Wales Catalonia and Québec

- The constitutional identity of nations such as Scotland, Wales, Catalonia and Québec is absent, or, at the least, ambiguous, being material rather than formal (Kelsen) :
 - **Scotland and Wales** : *Governement of Scotland Act, Governement of Wales Act*, unwritten British constitution and constitutional principles and conventions;
 - **Catalonia** : Catalan Constitutions (1283 to 1702), *Statute of autonomy* (1979 and 2006), Spanish Constitution;
 - **Québec** : Québec's *Charter of Rights and Freedoms, Fundamental Rights Act of Québec, Constitution of Canada* and constitutionnal principles and conventions.

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I- Shaping Legal Identities of Evolving Nations through Constitution-making (*cont'd*)

B- Defining a Constitutional Identity by Drafting a Written Constitution

- There have been some attempts to draft written constitutions for Scotland, Catalonia and Québec :
 - **Scotland** : SNP's *Model Constitution for an Independent Scotland* (2002 and 2011);
 - **Catalonia** : Reagrupament's draft *Constitution of Catalonia* (2011);
 - **Québec** : PQ's *Québec Identity Act* and a draft *Québec Constitution* (2007);
 - **Wales** : First minister's Carwyn Jones' call for a written British Constitution (March 20, 2012) and submission to the Silk Commission (February 18, 2013)

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II- Defining Québec's Constitutional Identity by a *Québec Constitution*

A- The *Québec Identity Act* (Bill 195)

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

OBJECT

1. The purpose of this Act is to enable the Québec nation to express its identity through
(1) **the creation of a Québec Constitution; [...]**

QUÉBEC CONSTITUTION

2. **The National Assembly must provide for the drafting of a Québec Constitution that will set forth the fundamental values of the Québec nation, establish Québec citizenship, present its national symbols, enshrine human rights and freedoms and fundamental linguistic rights, and describe Québec's parliamentary, government and judicial institutions. Such a constitution must also provide for its own revision and ensure its own supremacy.**

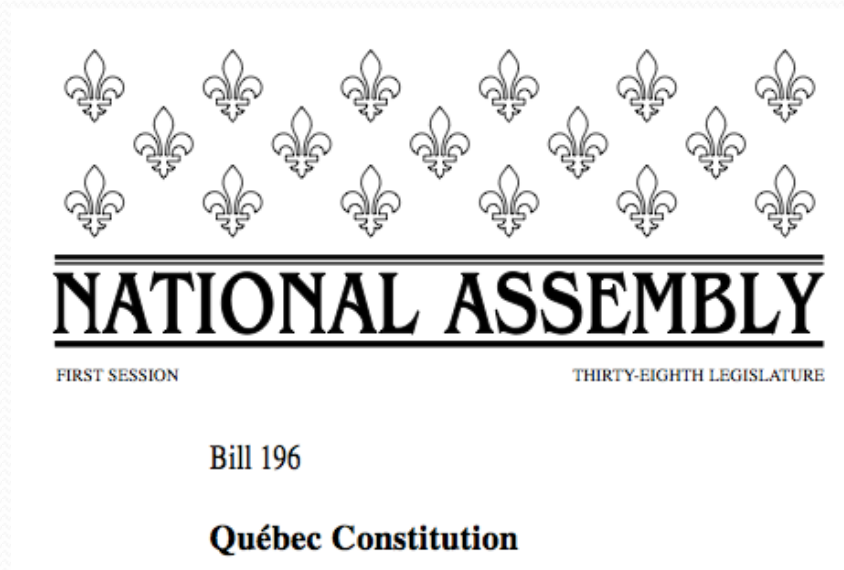
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II- Defining Québec's Constitutional Identity by a *Québec Constitution* (cont'd)

A- The draft *Québec Constitution* (Bill 196)



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II- Defining Québec's Constitutional Identity by a *Québec Constitution* (cont'd)

A- The draft *Québec Constitution* (Bill 196) (cont'd)

PREAMBLE

WE, THE PEOPLE OF QUÉBEC

AS Quebecers form a nation and Québec is a French-speaking nation;

AS the First Nations and the Inuit nation are present in Québec;

AS Québec has an English-speaking community;

AS Quebecers of all origins contribute to Québec's development;

AS Québec possesses distinctive characteristics and a deep-rooted historical continuity in a territory over which it exercises its rights through the medium of a state endowed with its own democratic institutions, namely, a National Assembly, a Government, and impartial and independent courts of justice;

AS Québec has an inalienable right to freely choose its political system and determine its legal status;

AS the constitutional foundation of Québec has been enriched over the years by the passage of fundamental laws and as it is the prerogative of the Québec nation to express its identity through the adoption of a Québec Constitution;

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II- Defining Québec's Constitutional Identity by a *Québec Constitution* (cont'd)

A- The draft *Québec Constitution* (Bill 196) (cont'd)

CHAPTER I

FUNDAMENTAL VALUES

1. Québec is a free and democratic society.

Québec is governed by the rule of law.

Québec is a land where individuals are free and equal in dignity and rights.

Québec promotes and protects its culture and the French language.

Québec contributes to the maintenance of peace and international security.

Québec supports social progress, economic development and cultural diversity throughout the world.

Québec acts in accordance with the principles of human development and sustainable development.

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II- Defining Québec's Constitutional Identity by a *Québec Constitution* (cont'd)

A- The draft *Québec Constitution* (Bill 196) (cont'd)

CHAPTER II	QUÉBEC CITIZENSHIP
CHAPTER III	NATIONAL TERRITORY
CHAPTER IV	NATURAL AND CULTURAL HERITAGE
CHAPTER V	NATIONAL CAPITAL
CHAPTER VI	OFFICIAL LANGUAGE
CHAPTER VII	NATIONAL SYMBOLS AND NATIONAL HOLIDAY
CHAPTER VIII	RIGHTS AND FREEDOMS IN QUÉBEC
CHAPTER IX	POWERS OF QUÉBEC
CHAPTER X	NATIONAL ASSEMBLY OF QUÉBEC
CHAPTER XI	GOUVERNEMENT DU QUÉBEC
CHAPTER XII	COURTS OF JUSTICE OF QUÉBEC
CHAPTER XIII	AMENDMENTS TO QUÉBEC CONSTITUTION
CHAPTER XIV	SUPREMACY OF QUÉBEC CONSTITUTION
CHAPTER XV	FINAL PROVISION

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- In his book *Constitutional Identity* (Oxford University Press, 2010), Professor Michel Rosenfeld of New York's Cardozo School of Law writes :

Conceptions of constitutional identity range from focus on the actual features and provisions of a constitution — for example, does it establish a presidential or parliamentary system, a unitary or federal state — to the relation between the constitution and the culture in which it operates, and to the relation between the identity of the constitution and other relevant identities, such as national, religious, or ideological identity.

- I believe the identities of Scotland, Wales, Catalonia and Québec, as well as many other nations, could be enhanced by the adoption of written constitutions. For their evolving nations, Constitution-making should be seen as a great national challenge.
- *Diolch yn fawr iawn...*