Mr. President,
Ladies and gentlemen, members of the Committee,

Bonjour.

I want to thank the Committee for the invitation to meet you as part of your ongoing study.

I will go into the matter, without preamble, given the precious time available for the appearance. Our network is composed of 16 members, including 3 jurilinguistic centres housed in universities, 6 universities, including 3 law faculties, 3 community colleges and 4 institutions grouping trainers, legal tool disseminators and experts in the measurement and assessment of language skills in a legal context. I am the director of the RNFJ and we are housed at the National Secretariat of the Association des collèges et universités de la francophonie canadienne. Further information on our network can be found on our website: www.rnfj.ca.

Today, I have one message to share with you on behalf of the Réseau national de formation en justice (RNFJ) and one recommendation to make.

Message

First, I want to talk about the administration of justice. As part of your study, you will hear about several issues, including the bilingualism of judges, the simultaneous publication of federal court judgments in both official languages, the linguistic rights of individuals in divorce and bankruptcy matters and many other topics in this regard.

The heading that encompasses all these dimensions is the Administration of Justice.

When the members of the RNFJ talk about the administration of justice, we are talking about:

1. employees and other stakeholders in the justice system
2. who must have the necessary language skills and
3. who must have easy access to the legal and jurilinguistic tools necessary
4. to ensure equal access to justice in both official languages.

At one time, it was said that administrative inconvenience could not be a factor preventing equal access to justice in both official languages. Today I think a better term would be institutional obstacles and not just administrative inconveniences.

When your report is published and enters the government machinery, I am sure you will often hear that the law is aimed at an ideal, that human resources that can practise in both official languages are not easily available in court, that we do not have the necessary tools, that the cost is high, that resources are scarce, etc. etc.

The RNFJ was created in February 2014, with the support of the Department of Justice Canada. Its 16 members are ready to respond to any order from the federal government, the provinces and territories and any other stakeholders in the justice sector regarding:

1. the standardization of French common law vocabulary
2. the production and distribution of legal and jurilinguistic tools
3. post-secondary training
4. on-the-job training and
5. the certification of language skills in a legal context.

The message I am delivering to you today is as follows: In the future, when administrative inconveniences or institutional obstacles in terms of human resources or the availability of the necessary legal and jurilinguistic tools are raised, we will know that this is an excuse not to act.

Recommendation

I would now like to talk to you about a few negative impacts that the current wording of the Official Languages Act has on Canadians' access to justice in the official language of their choice. I will then make a recommendation concerning these negative impacts.

I will give you two examples that touch on the linguistic rights of individuals to illustrate a profound problem with the law and the regulation.

Our members use court judgments as educational tools. I talked to some teachers. It is embarrassing when students have to be told that a particular judgment exists only in English, especially when it comes to federal court judgments. Students ask why this situation persists in 2018, 151 years after Confederation. It is even more embarrassing when it has to be said that the translation exists in French, but it does not have the same force as the original English version. You can see that legislation that does not provide very clear guidelines for the publication of judgments and their equal force has a negative impact on the entire system, starting at the very base in the classroom. This is a poor start to students' understanding of the equality of status and use of Canada's two official languages.
My second example is as follows: A lawyer who wants to provide service in French to a litigant must have 100% of his or her legal tools in French. These include forms, precedents and contract templates. Outside Quebec, private sector lawyers are the main driving force behind the development of these tools. Obviously, the vast majority of the tools produced are therefore produced in English. In provinces and territories where Francophones are in a minority situation, the main determinant of the availability of legal tools in French is the demographic weight of the minority in question.

Francophone lawyers are doing their part and more, but here is the problem. If they account for say 5% of the total number of lawyers in their province, about 5% of the tools will be available in French. We cannot ask a French-speaking lawyer to produce 20 times more tools than his English-speaking counterpart. This second example explains why cases have been documented where people who request a divorce in French are told that they must pay for the translation of the forms used for the divorce. That is not equal access to justice.

You see the challenge ahead. The Francophone private sector in a minority setting will never be able to meet this need for legal tools in French. In our view, the government must intervene to fill this market gap.

The two examples I have given you are rooted in the shortcomings of the current law and its regulations. On the one hand, they do not sufficiently clarify the federal government's objectives for the administration of justice in its jurisdiction and, on the other hand, the legislation and regulations are silent on the fact that the administration of justice is a shared jurisdiction. Yet, the provinces have a major role to play in ensuring institutional capacity to function in both languages in the area of justice.

We ask that your report recommend to the federal government that the modernized legislation and accompanying regulations clearly specify:

1) the federal government's objectives with respect to equal access to justice in both official languages;
2) the federal government's principles of collaboration with the provinces and territories in the area of justice, taking into account the constitutional and legislative framework.

For the work of the RNFJ, the federal government's objectives must include at least four dimensions.

1. It is in the federal government's interest to affirm that any litigant anywhere in Canada must have access to a lawyer who wants to and can provide legal services in the official language of his or her choice.
2. It is in the federal government's interest to affirm that post-secondary students wishing to pursue their studies in French in a field of law and justice must be able
to do so under conditions similar to those of their counterparts who study in English in the same fields.

3. It is in the federal government's interest to affirm that all justice professionals must have access to on-the-job training to improve their skills in English and French in a legal context and to instruments to measure and certify their professional language skills.

4. It is in the federal government's interest to affirm that it has an obligation to support the standardization of French common law vocabulary as well as the production and distribution of reliable legal and jurilinguistic tools for equal access to justice in both official languages.

Conclusion

Without access, we cannot talk about justice. The modernization of the Official Languages Act must support a justice system in Canada that has the institutional capacity to function equally in both official languages. With such a system in place, Canadians who choose to obtain legal services in the official language of their choice will be able to obtain equal access that reflects their linguistic and cultural identity.