

Quebec Bill 21: Vanguard of secularism despite its modesty

AFT On-line Event

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Secularism

- Equality of treatment for all, including equality of the sexes
- Freedom of conscience
- Strong religious neutrality of the State
- Separation between religions and State

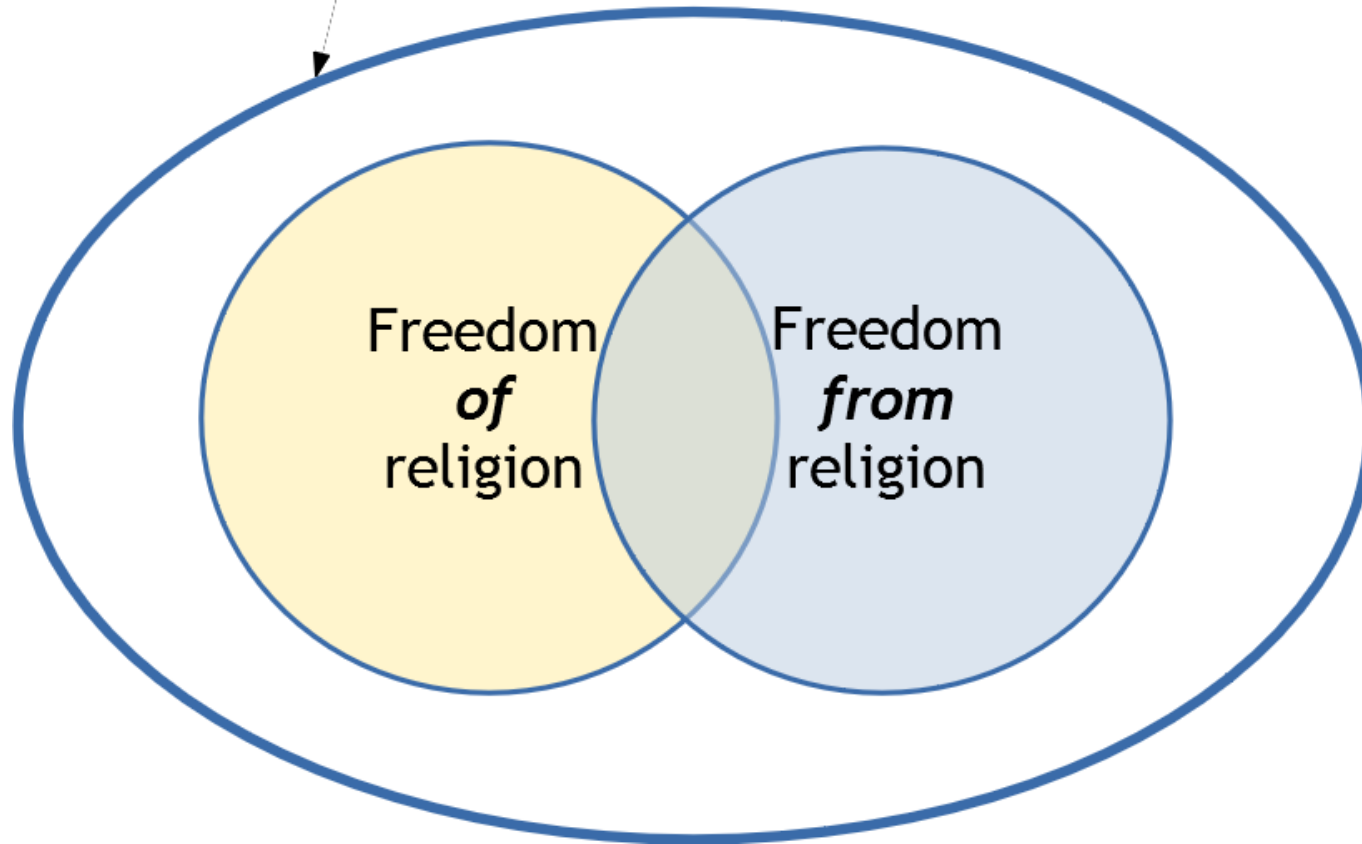
Religious neutrality

- **Strong:** Neutrality among various systems of belief and non-belief.
- **Weak:** Neutrality among various systems of belief only (atheist and other non-believers excluded)

Full Secularism

- **Freedom of conscience**
includes both freedom **of** and freedom **from** religion.
- **Religion** must be separated from the State because it **is dangerous** whenever it obtains political power or influence.
- **The principle of separation is essential.**
Without it, the three other principles are all compromised.
- **Religious Neutrality must be of the STRONG type.** If not, then atheists and other non-believers are discriminated against.

Freedom of Conscience



Bill 21: Where & When

- Canadian province of **Quebec**, the only province which is majority French-speaking.
- 2019-03-28: **Draft Bill published**
- 2019-06-16: **Bill adopted** by National Assembly
- 2019-07-09: **Notorious crucifix removed** from N.A.

Bill 21: Strengths

- Clear definition of secularism.
- Inclusion of this definition in the Quebec Charter.
- Ban on religious symbols worn by civil servants in positions of authority, including schoolteachers.
- Ban on face coverings, worn by:
 - Civil servants
 - Users of civil services
 - MNAs (Members of National Assembly)

Bill 21: Weaknesses

The ban on religious symbols is limited:

- applies to only **part of the civil service**
- applies to only **teachers and principals in public schools**
- does not apply to **private schools** at all
- does not apply to **child-care centres** at all
- does not apply to **MNAs**
- does not apply to **installations**, e.g. walls of State buildings

Bill 21: Weaknesses (cont.)

- The **grandfather clause**.
- Does not affect considerable **fiscal advantages** granted to religions.
- Does not end or reform the highly criticized **Ethics and Religious Culture (ERC) program**.

The Three Spaces

Private

Public

- Outside civic space
- Users of civil services

Civic

- State Institutions
- State Employees

**Secularism applies
mainly here!**

Allow Civil Servants & Teachers to Wear Religious Symbols?

- Incompatible with **State religious neutrality**, like symbols on the walls.
- **Incompatible with separation** between religion & State.
- 15th April 2015, **Supreme Court of Canada**, case of prayer at Saguenay city council, emphasized importance of State religious neutrality.
- A **privilege** granted to religions. A **religious accommodation**.
- Constitutes **religious advertising, passive proselytizing**.
- **Discrimination against atheists**, against other non-believers and against believers who wear no symbols.

A Question of Behaviour

- Banning religious symbols is **not discriminatory**. It is a **disciplinary** measure.
- Bans on religious symbols are like **laws banning smoking** in certain places.
- Bans on religious symbols are like **speed limits** on highways. Such limits apply to everyone. To say that banning religious symbols discriminates against believers is like saying that speed limits discriminate against owners of fast cars.

- **The rights of some end (or become limited) where others' rights start.**
- **Freedom of thought or belief may be absolute, but never freedom to practise.**
- **Wearing a religious symbol is a religious practice, not a religious belief.**
- **A religious symbol can be removed!**

Bill 21 is moderate, even timid

- Religious symbols bans: **France, Switzerland, Belgium, Germany.**
- Recent law in Geneva, Switzerland, similar but stronger.
- Face-covering bans: **Numerous countries of Europe and Africa**, including several Muslim-majority countries.
- Although groundbreaking in North America, **Bill 21 is in no way extreme.**

Professional Ethics

- To remove one's religious symbol at work is a form of **professionally ethical behaviour**.
- The **Quebec Public Service Act** bans partisan political symbols and behaviour for civil servants.
- Bill 21's ban is **a benefit for everyone**, because it protects the religious neutrality of civic space.
- **No religious practice is truly an obligation.**

Bill 21: The Unique Argument Against

- Arguments against Bill 21 being generally very weak, opponents often indulge in gratuitous defamatory accusations.
- There remains only one plausible argument against Bill 21:
The law limits freedom of religious expression of civil servants and teachers.
- True, but **freedom of religious belief is not affected.**
- Unless we completely neglect the rights of civil service users and public school students, **we must limit freedom of expression (religious, political, commercial) of State employees.**
- **Conflicting rights:** We must find an equilibrium.

Court Challenges : [1] Suspend Bans?

Attempts to suspend immediately the two bans

- **Challenge rejected 2019-07-18, Quebec Superior Court.** Furthermore, Judge Michel Yergeau asserts that Bill does NOT cause prejudice against religious minorities. On the contrary!
- **Appeal rejected 2019-12-12, Quebec Court of Appeal**
Three judges. One judge (with alleged links to challengers) voted to suspend ban on religious symbols.
- **Appeal dismissed 2020-04-09, Supreme Court of Canada**
No explanation given.

Court Challenges : [2] Repeal Bill 21?

At least 17 challengers attempting to have Bill 21 repealed, including:

- **Several individuals (veiled Muslim women, turbaned Sikh woman, etc.)**
- **National Council of Canadian Muslims (NCCM)**
- **English Montreal School Board (EMSB)**
- **World Sikh Organization of Canada**
- **Canadian Civil Liberties Associations (CCLA)**
- **Amnesty International, Canada francophone**
- **Canadian Human Rights Commission (CHRC)**
- **Lord Reading Law Society**
- **Two unions: one teachers (without consulting members), one civil servants**

Intervenors in support of Bill 21

In addition to the **Quebec Attorney-General**, Bill 21 supported by:

- **Mouvement laïque québécois (MLQ):**
Bill 21 protects right of parents not to have their children exposed to religious indoctrination.
- **Pour les droits des femmes du Québec (PDF-Q):**
Bill 21 helps protect women from religious misogyny.
- **Libres penseurs athées—Atheist Freethinkers (LPA-AFT):**
Bill 21 helps protect **freedom of conscience**, which includes both freedom **of** religion and **from** religion

Our intervention (a)

As atheists, we welcome the objective, expressed through Bill 21, to end certain religious privileges. Indeed, to allow civil servants and schoolteachers to indulge in ideological displays while on the job, simply because their ideology is religious, constitutes an unjustifiable privilege for religions. The consequences of this privilege are

(1) infringement of the freedom of conscience of users of social services and of students in public schools, by exposing them to passive proselytism and indoctrination which these partisan religious manifestations represent; and

(2) discrimination againsts atheists and other non-believers in their relations with the State.

It is therefore imperative that State representatives refrain from wearing religious symbols in order to put an end to this discriminatory privilege.

Our intervention (b)

- We **oppose religious indoctrination**, especially of children.
- **Legislation should not protect religions in any way** different from or superior to other systems of value or ideologies.
- Freedom of conscience subsumes the **internal dimension** of religious freedoms, the right to apostasy and the right to be free from religion.
- **External manifestations** of freedom of religion are limited to freedom of expression only.

“Arguments” of Adversaries of Bill 21

- Playing the victim, ad nauseam...
- Race/Religion Conflation, thus making Bill 21 “racist.”
Religion is a “personal immutable characteristic.”
(This pseudo-argument = a total negation of freedom of conscience.)
- Bill 21 discriminates against women! Especially Muslim women!!!
- Bill 21 = Donald Trump’s Muslim ban!!!
- Bill 21 requires people to renounce their religion!!!
- Bill 21 = Nuremberg Laws of Nazi Germany!!! Foments genocide!!!
- By banning religious symbols worn by judges, Bill 21 violates judicial independence!!!
- Pro-Bill-21 arguments invalid because made by “older white male heterosexual.”
(Very woke pseudo-argument.)
- And on and on and on.....

Challenge before Quebec Superior Court

- November & December 2020: Court proceedings.
- 2021-04-20: Judge Blanchard rendered his decision:
 - Validates most of Bill 21
 - BUT, uses 2 loopholes to do as much damage as possible.
 - Struck down ban on Members of National Assembly (MNAs) wearing face-coverings.
 - Struck down application of Bill 21 to English-language schools.

2021-04-20 Quebec Superior Court Decision: the nuts and bolts (a)

- **Judge Blanchard overwhelmingly biased** against Bill 21 and secularism. Does as much damage as possible, but is limited.
- **Two Charters:**
 - **Quebec Charter of Human Rights and Freedoms**, 1976. Section 52 allows a law to derogate from some provisions if explicitly stated.
 - **Canadian Charter of Rights & Freedoms** (1982 Constitution), never signed by Quebec. Section 33, “notwithstanding” clause, allows law to derogate from some provisions for 5 years.
- Bill 21 invokes both derogation clauses. These clauses represent a balance of power between legislative and judicial branches.

2021-04-20 Quebec Superior Court Decision: the nuts and bolts (b)

- **Two loopholes**, sections not covered by “notwithstanding” clause
- Section 3 of Canadian Charter: right to vote and eligibility to serve in legislature. Judge used this to **exempt sitting MNAs** from ban on face-coverings.
Consequence: An MNA may wear niqab or burqa in legislature.
- Section 23 of Canadian Charter: English and French minority language rights. Judge used this to **exempt English-language schools. Consequences:**
 - Partitioning Quebec along linguistic lines.
 - Discrimination against English-speaking children because unprotected by Bill 21.
 - Can French-language schools in English Canada now ban their teachers from wearing religious symbols?

2021-04-20 Quebec Superior Court Decision: the nuts and bolts (c)

- In both cases—the right to elected office and minority language rights—the judge is using an **extremely exaggerated interpretation**, indeed absurd, of the corresponding right.
- Rejects out of hand laws in several European countries which are similar to (and sometimes much more extensive than) Bill 21.
- Rejects Quebec's specificity within Canada but asserts anglophone specificity within Quebec. Inconsistency & hypocrisy.

2021-04-20 Quebec Superior Court Decision: the nuts and bolts (d)

- Rejects out of hand comparison between political & religious symbols, Banning religious symbols violates “soul or essence” of the religious believer! (Reminder: Quebec **Public Service Act** bans partisan political displays.)
- Criticizes Bill 21 for ignoring the law of gods. Does he think that such laws of “god” were written by someone other than human beings? His thinking is medieval and theological.
- Essentializes religious affiliation, as if innate and immutable like racial identity. Implies complete negation of freedom of conscience. Specious comparisons with Afro-Americans.

2021-04-20 Quebec Superior Court Decision: the nuts and bolts (e)

Judgment privileges religions by **placing freedom of religion:**

- **ABOVE freedom from religion**
(these two freedoms should have equal importance).
- **ABOVE freedom of conscience**
(which in reality includes the other two as subsets).
- **ABOVE freedom of political opinion**, using “soul or essence” excuse.
(In reality, **a religious symbol is political**, especially when worn by a civil servant in a position of authority.)

2021-04-20 Quebec Superior Court Decision: the nuts and bolts (f)

- **Denigrates secularism** (as practised in France & Quebec) with expressions such as “tyranny of the majority.”
- Summarizes arguments of intervenors LPA-AFT, MLQ, PDF-Q but then completely ignores them.
- Judgment based entirely on “arguments” of opponents.
- **Total emphasis on freedom of religion of civil servants and teachers**, completely ignoring freedom of conscience of users and students.
- Positive point: Judge rejects specious argument that Bill 21 violates sexual equality, in article 28 of Canadian Charter.
(But judge ignores misogyny of some religious symbols.)

What Next?

- Next stop: **Quebec Court of Appeal**
(and after that, probably Supreme Court of Canada)
- Parties appealing, to restore what Blanchard struck down:
 - Quebec government
 - MLQ
 - PDF-Q
- Parties appealing, to repeal what Blanchard left in Bill 21
 - Most (all?) of the challengers

General Situation

- The reaction against Quebec Bill 21 has been hysterical, fanatical and disgusting. Based on ignorance and misrepresentation of secularism, with a huge dose of anti-Enlightenment pseudo-leftism making it even worse.
- The behaviour of opponents of Bill 21 during the Quebec Superior Court proceedings (Nov., Dec. 2020) was disgusting but in no way surprising.
- No atheist, humanist or so-called secularist organization in Canada outside Quebec supports Bill 21. Some actively oppose it. Why? Hypocrisy, cowardice and conformism.

**Quebec is in the
vanguard of
the Americas
on the issue of
secularism.**



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