



Atheist Freethinkers
PRESS RELEASE
For immediate release

LPA-AFT denounces the theological tone of the judgment of Quebec Superior Court on Bill 21

Montreal, 26th April 2021 – *Atheist Freethinkers* (LPA-AFT), an association which promotes secularism and supports the rights of atheists, denounces the categorically pro-religious nature of the judgment rendered on 20th April 2021 by Justice Marc-André Blanchard of Quebec Superior Court. LPA-AFT was an intervenor in that case. Although we recognize that the Court's decision validates the application of Bill 21 (*Loi sur la laïcité de l'État*) to Quebec's French-language school system, it does so only under the constraint imposed by the override ("notwithstanding") clauses of the Canadian and Quebec Charters. We thus note the wisdom shown by the legislator in invoking these clauses when drafting this law.

Indeed, the judgment declares Bill 21 inoperative in Quebec's English-speaking schools by virtue of the language rights of this minority set out in section 23 of the Canadian Charter. This extremely broad interpretation of the concept of language rights has the effect of creating two categories of citizens, depriving English-speaking children of the secular protection offered by Bill 21. In addition, the judgment removes the ban on sitting Members of the National Assembly (MNAs) wearing face coverings, on the pretext that this would violate the right to vote set out in Article 3 of the Charter. Thus, the judge would allow an MNA wearing a niqab to sit in the Assembly! Even worse, he would allow a teacher to wear the niqab in front of her students, when teaching.

These are two loopholes—as sections 3 and 23 are not covered by the notwithstanding clause of the Canadian Charter—that Justice Blanchard has used in order to do as much damage as possible to this legislation. In both cases, the idea that the corresponding right is somehow violated by Bill 21 is patently absurd.

In paragraph [80], the judgment rejects out of hand any examination of the existing situation in other democratic states, thus ruling out any consideration of similar laws in Europe. The judgment recognizes the particular nature of the English-speaking minority within Quebec, but in paragraph [79] declares that Quebec's particular legal and social context within Canada is irrelevant. The inconsistency is glaring.

Justice Blanchard claims on several occasions that the wearing of religious symbols in no way infringes on the freedom of conscience of either school students or civil services users. The judge ignores the authoritarian position of government employees whom Bill 21 prohibits from wearing such symbols. How can one claim that a teacher or a police officer wearing an ostentatious religious symbol can have no influence on the students or the public whom they serve?

The court's judgment is not so much legal as it is ideological, as it lays out a long argumentation against secularism. Firstly, the judgment fails to recognize the importance of separation between religion and State. Secondly, it interprets State religious neutrality only in its weak form: i.e. neutrality between various religions but without affirming neutrality between belief and non-belief (as required by the Supreme Court of Canada decision in the *MLQ v. Ville de Saguenay* case). Thirdly, it does not recognize freedom from religion but gives freedom of religion a higher priority than it gives to freedom of conscience, while the latter should in fact include the previous two.

Moreover, the judgment is not only ideological, it is downright theological! In paragraph [1095] for

example, Justice Blanchard asserts that, in order to protect freedom of religion, some recognition must be given to so-called laws of “God.” Is the judge unaware that any “God’s law” is in reality enacted by human beings, that is to say theologians or other religious authorities, and almost always men, who arrogantly claim to be spokespersons for the divinity? “God’s law” is a theological fiction.

Even worse, in paragraph [1098] the judge declares that banning a civil servant from wearing a political symbol may violate their freedom of expression, but that banning a religious symbol is much more serious. For a person whose religion requires a specific doctrinal practice, such a ban, according to the judge, would affect their very “soul or essence” and represent no less than “a negation of the very foundation of their being!”

Thus, for Justice Blanchard, religions are not on a par with political ideologies, but are much more fundamental and more important. In addition, he evokes the existence of a “soul” in order to rationalize his essentialization of religious affiliation, as if this affiliation were innate, immutable and sacred. No, Your Honour, a so-called “religious” ideology is no better than a political or philosophical ideology just because it calls itself “religious.” Christianity, Islam or Hinduism, etc. are not worth more than liberalism, Marxism, fascism or libertarianism, nor more than agnosticism, atheism, etc.

In summary, the Court’s decision grants freedom of religion a much higher priority that it bestows on other aspects of freedom of conscience.

Finally, we note that a major aspect of the debate around Bill 21 is the anti-Quebec prejudice that opponents of the legislation blithely use to vilify both French-speaking Québécois and the secularism which they support in large numbers. The Blanchard decision fully participates in this excess by denigrating Bill 21 with terms such as “tyranny of the majority” while exempting the English-speaking community which the judge congratulates for its promotion of so-called “diversity.”

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