

Quebec's religious neutrality is a religion per se

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Canada is often known as a nation, rich in people of diverse cultural backgrounds. According to Statistics Canada 2016 Census, over 250 ethnic origins were reported, and visible minorities make up to %22.3 of the population.

In June 2019, the current premier of Quebec, François Legault's government passed An Act Respecting the Laicity of the State (commonly known as Bill 21) to deliver Coalition Avenir Québec's promise in the 2018 provincial election campaign regarding prohibiting religious symbols in the public sector.

What do we know about Quebec's secularism law?

Simply put, Bill 21 bans public-sector employees in Quebec from wearing religious symbols at the workplace. Regardless of their position, as long as they work for the government of Quebec, this law will be applied to them. Many teachers, judges, and police officers who wear religious garments—including Hijab, kippah, turban, etc — must either take them off or lose their job.

Mechanics of the Secularism act in Quebec

According to the Canadian Charter of Rights and Freedoms, each Canadian has four fundamental freedoms and some other rights; (a) freedom of conscience and religion; (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication; (c) freedom of peaceful assembly; and (d) freedom of association.

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And the rights are democratic, mobility, legal, equality, language, and aboriginal rights.

How then is bill 21 reconciled with freedom of religion? This is where Section 33 of the charter, the Notwithstanding clause comes into play. “Section 33 allows Parliament or the legislature of a province to derogate from certain sections of the Charter, namely section 2 (fundamental freedoms), sections 7 to 14 (legal rights) and section 15 (equality rights)”, according to the Department of Justice of Canada. Like the book, *Canadian Democracy* points out “What the Charter gives, the legislature may take away.” (Check out [The Walrus](#) for further reading.)

Bill 21 is an action that apparently the Charter supports, however, some lawyers are working to argue against its constitutionality by appealing to Section 28 of the Charter, the gender equality right. Here the philosophical question “If it is legal, is it moral too?” comes to play.

Who will be impacted most by Bill 21?

According to Statistics Canada— for the last year in which we have data (2011)— 87.87% of the total population of Quebec has a religious affiliation. 93.5% of them are Christian and the rest—less than 7%— are non-Christians. The Muslim population makes up the largest population with religious affiliation in Quebec after Christians, constituting up to 3.5% of 6.5% non-Christian population of Quebec.

At first glance, considering the large population of Christians in Quebec, it may seem they are unfairly impacted more than any other group by Bill 21, but something beyond statistics calls this conclusion into question. To judge how severe this bill affects different members of religious faith, we should find out who has the most at stake. In other words, Bill 21 mostly affects those who cannot abandon their religious symbols. So, we need to understand the importance of the cross, hijab, kippah, or turban in Christianity, Islam, Judaism, or Sikhism

in terms of obligation and whether these symbols are mandatory religious symbols?

Some law experts have argued about its unconstitutional aspect and how this bill has worked around the Charter.

Considering what Section 28 of the Charter states “Notwithstanding anything else in this Charter, the rights and freedoms in it are guaranteed equally to male and female persons.”, Lawyer Olga Redko argued, “Bill 21 violates the sexual equality guarantees in the Canadian Charter of Rights and Freedoms which are not shielded by the notwithstanding clause that the province has invoked to avoid court challenges”. That is why there is a consensus among many of the opponents of Bill 21 on the fact that this bill has unfairly affected Muslim women more than any other religious group. Kerri A Froc, a law professor, points out in her article “Shouting into the Constitutional Void: Section 28 and Bill 21”, that “there were nearly two and a half times as many Muslims in Quebec as Jews and Sikhs together. Approximately 53% of Muslim women in Canada, wear hijab. Nearly half of Quebec’s workers in the public sector are female”.

Appealing to the notwithstanding clause in the case of Bill 21, that “allows Parliament or the legislature of a province to derogate from certain Sections of the Charter, namely Section 2 (fundamental freedoms), Sections 7 to 14 (legal rights) and Section 15 (equality rights)”, in my opinion, flies in the face of democracy by infringement of religious-minority rights in Quebec. If the Reasonable Limits clause imposes limits on people’s rights, the Notwithstanding clause simply ignores some of their fundamental and democratic rights and freedoms.

As a Muslim woman who has chosen to have a hijab, let me share the reasons why I chose to wear a hijab. Common sense tells us that adhering to any moral, religious, social, or legal principle limits individuals’ free will. Therefore, when an individual willingly chooses to adhere to, say, a religious value, it can be translated into giving part of her freedom in favor of

the meaning she has found in that particular value or rule. To put it another way, what she is practicing is right and meaningful to her, so it is worth losing part of her freedom in favor of living more meaningful. Imagine individuals who choose to be vegan because they find it an ethical lifestyle. Once they decide not to consume meat, they are limited to some extent, whereas up until this point, they were free to eat meat. This logic also applies and is true about cultural or religious practices.

As a result, it does not seem to make sense when Isabelle Charest, Quebec's Minister for the Status of Women, tried to justify Bill 21 by saying: "all religious symbols can be a sign of oppression". As the journalist, Allison Hanes, puts, it is better to call her "Quebec's minister for the status of (some) women". In fact, for a Muslim woman who freely chose to have the Hijab and found meaning in it, wearing a Hijab is freedom per se, not oppression.

To many Muslim women, *willingly* wearing a hijab is an identifier of belonging to a Muslim community for those who want to be known as a Muslim woman. The keyword here is *willingly*. Needless to say how unethical is forcing people to wear the hijab unwillingly—in religious dictatorship systems—, so is making people not to wear religious symbols at work. If a system that forces women to wear a headcover when they appear in public is oppressive, so is the system that forces them not to wear that headcover in the public. The separation of state and religion or the religious neutrality of the state that the Government of Quebec is willing to achieve would not be accomplished by Bill 21. The secularism resulting from Bill 21 is a religion per se.
