

Critics say Quebec's new secularism bill violates right to religious freedom

Quebec's Bill 21 banning public servants from wearing religious attire or symbols on the job violates the constitutional right to religious freedom, critics say.

Nevertheless, the Coalition Avenir Quebec (CAQ) government in Quebec has promised to use the notwithstanding clause of the Canadian Charter of Rights and Freedoms to override any court challenges. It tabled Bill 21 in the national assembly on March 28.

"We recognize the state institutions want to declare their neutrality," said Bishop Noel Simard of Valleyfield, the president of the Assembly of Catholic Bishops of Quebec (AECQ).

"That neutrality must not restrain the fundamental rights of the individuals and the communities to express their religious and spiritual convictions;" to live according to those convictions and to express them in the public square.

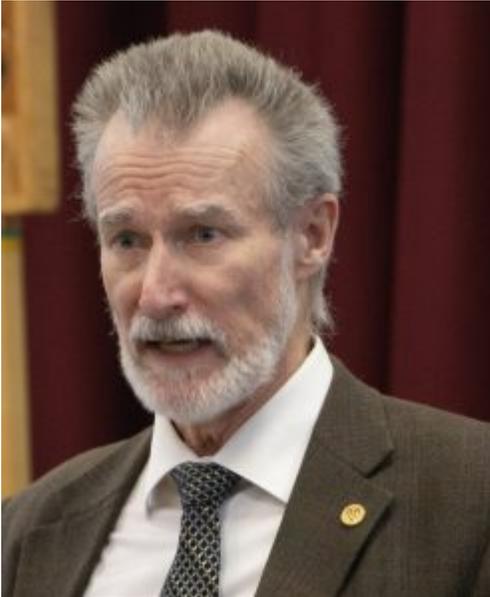
The AECQ issued a statement March 6 in anticipation of the bill, but Simard said the Quebec bishops want to take more time to study it.

"The wearing of religious signs or clothing is a clear case of the exercise of religious freedom," the statement said. "Restricting in any way this fundamental freedom should be done only on the basis of grave and unassailable reasons."

The Quebec bishops said much of the debate is fuelled by the presence of some Muslim women who wear the veil, but they stressed targeting these women goes contrary to the importance of integrating them into society.

The bill requires women to uncover their faces when their identity needs to be confirmed or for issues of security when receiving services. Those providing services must also uncover their faces.

Bishop Simard noted polls show the population of Quebec is about 75 per cent in favour of the bill.



Douglas Farrow

“People on the street who are in favour of the bill are often happy enough to point the finger at Quebec’s bad experience with Catholicism, although I suspect government is more concerned with Islamic influences at this point than with Christian ones,” said Douglas Farrow, a professor of Christian thought at McGill University in Montreal.

“I don’t know whether they have any specific reasons to be concerned with either, but there is a fair bit of prejudice against both.”

Farrow was the guest lecturer at the recent Anthony Jordan Lecture Series sponsored by Newman Theological College in Edmonton

Threatening the use of the notwithstanding clause is “a clear indication that Premier Legault and his government know they are violating the charter,” said Don Hutchinson, CEO of Ansero Services Inc. which works to promote and partner on religious freedom.

“In addition to making any legal recourse particularly difficult, Bill 21 also amends the Quebec Charter of Rights and Freedoms.”

Hutchinson noted the CAQ government has taken a bad piece of legislation from the previous Liberal government “and made it worse.”

Hutchinson, author of *Under Siege: Religious Freedom and the Church in Canada at 150* pointed out the Quebec government is ignorant of the Supreme Court of Canada’s decisions on the principle of state neutrality, which is that the “governments are neither to favor nor hinder any particular religious group or non-religious group in the practices of their beliefs.”



Don Hutchinson

The Quebec government in favouring laicity favors “no religion. It favors atheism,” Hutchinson said.

Farrow, however, argued it is not possible for a state to be neutral.

“No policy of any real importance is unconnected to some sense of the common good, and some sense of what it means for human beings to flourish together,” Farrow said. “They inevitably have some kind of anthropology or theological idea behind them.”

Those ideas can be “a repudiation,” of theological concepts, and be atheistic, he said.

The word laicity roughly corresponds to the ideology of secularism, but reflects a historic battle first in France, then more recently in Quebec to “as it were liberate the people from the clergy,” because clericalism was so strong, Farrow said.

“The whole business of saying to the Church ‘Hands off our public life,’ is understand as a transition from a kind of clericalism to an emphasis on the peoples’ ability to determine things for themselves.”

Where in Quebec “the paternalistic state was once both religious and bureaucratic and civil, it’s now just civil and there’s a civil religion of secularism,” Farrow said.

Bill 21 says the laicity of the state means the “separation of state and religions,” but Iain Benson, a Canadian constitutional lawyer now teaching law in Australia said the bill imports an American concept that has never been part of the Canadian understanding.

Instead Canada's been based on the co-operation of Church and state "in which funding, which after all comes from all citizens including religious ones, can be fairly divvied out by the state to religious projects—think of hospitals and educational institutions—that serve the common good," Benson said.

Bill 21 has a grandfather clause for those already working in publicly-funded jobs to retain their religious attire as long as they do not get promoted or move to another job.

"As the English press has pointed out, the grandfather clause requires a kind of head count," said Farrow. This would mean "you create a massive file of people who are explicitly religious and identified by certain religious symbols."

"We don't do that," said Farrow. "We don't keep track of those things and we don't want to keep track of those things."

"The grandfathering is a double-edged sword," he said. "It creates a category of citizens who are special who have identified themselves as by way of religious symbols. People don't like that and they have good reason not to."

Farrow said the confusion of laicity or secularism with state neutrality was exemplified in the recent controversy over the removal of the crucifix from the Montreal city hall.

Mayor Valerie Plante argued, "'We're in a new era and in that era we don't subscribe to any religious symbolism,'" Farrow said.

"She's talking about an endorsement of a new view of history, in which the coming of the Christ, either the first or second, is irrelevant," Farrow said. "Our understanding for the past 2,000 years is marked off by the coming of Christ. If she says, 'We no longer think that,' she's taking sides."

"The bishops do not have a problem with moving the crucifix out of the chamber," Bishop Simard said. "As bishops we were not the ones who put the crucifix there so we are not the ones who will remove it from there."

"We would like the crucifix to stay there, but we won't start a campaign to oppose removal," he said, but he added he hoped it wouldn't be replaced with something else.

These religious symbols are not only part of our tradition and patrimonial heritage; (the crucifix) is a sign of faith, of the love of God giving his Son to bring us salvation out of love," Bishop Simard said.

"It's not only an object that hangs on the wall, it's a sign of faith, which is still important and present in our time, even though we are living in a very secularized society."