CANADIAN CIVIL LIBERTIES ASSOCIATION

ASSOCIATION CANADIENNE DES LIBERTES CIVILES

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Mémoire et demande d'intervention de l'Association Canadienne des libertés civiles (ACLC) sur le projet de loi n° 62 : *Loi favorisant le respect de la neutralité religieuse de l'État et visant notamment à encadrer les demandes d'accommodements religieux dans certains organismes*

Submissions of the Canadian Civil Liberties Association (CCLA) on Bill 62: *An Act to foster adherence to State religious neutrality and, in particular, to provide a framework for religious accommodation requests in certain bodies*

Présenté lors de la consultation particulière tenue par la Commission des institutions
Presented to the Committee on Institutions' special consultation

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MÉMOIRE (VERSION FRANÇAISE)

L'association canadienne des libertés civiles (l'ACLC) présente ce mémoire à la Commission des institutions dans le cadre des consultations particulières sur le projet de loi n° 62 : *Loi favorisant le respect de la neutralité religieuse de l'État et visant notamment à encadrer les demandes d'accommodements religieux dans certains organismes* (ci-après « le projet de loi n° 62 » ou « le projet de loi »). L'ACLC souhaite également l'opportunité de participer aux auditions publiques tenues par la Commission, afin de s'engager davantage dans la discussion des importants enjeux soulevés par le projet de loi n° 62.

Présentation de l'auteur

L'ACLC est un organisme national, non partisan, à but non lucratif fondé en 1964 afin de promouvoir et de défendre les libertés fondamentales au Canada, y compris la liberté de religion, la liberté d'expression et le droit à l'égalité. L'ACLC possède une expertise importante dans le domaine de la protection constitutionnelle des droits et libertés fondamentaux ; elle est souvent appelée à présenter des soumissions sur ces enjeux auprès d'organismes publics.[1] De plus, l'ACLC a agi à titre d'intervenante devant la Cour suprême du Canada à l'occasion de nombreux arrêts de principe sur la liberté de religion.[2] Notre organisme a toujours prôné l'équilibre entre les droits et les intérêts qui s'affrontent souvent dans ces affaires.

Résumé

L'ACLC s'oppose fermement au projet de loi n° 62. À notre avis, le projet de loi est assurément contraire aux droits et libertés fondamentaux enchâssés à la fois dans la *Charte des droits et libertés de la personne* du Québec (la « *Charte québécoise* ») et dans la *Charte canadienne des droits et libertés* (la « *Charte canadienne* »). Nous reconnaissons certainement l'importance de la neutralité religieuse de l'État, principe qui sous-tend le projet de loi ; cependant, ce principe est déjà reconnu en droit canadien comme en droit québécois. Loin de promouvoir la neutralité de l'État, le projet de loi n° 62 aurait l'effet de miner ce principe. Bien que le projet de loi prétende soutenir le droit à l'égalité, en réalité les mesures proposées affaibliraient ce droit et auraient un impact particulièrement néfaste sur les femmes et sur les minorités religieuses, ethniques et raciales.

Ce mémoire met l'accent sur les propositions suivantes :

1) Le projet de loi affaiblit la neutralité de l'État ;

[1] Une liste partielle de ces soumissions, avec une emphase particulière sur la liberté d'expression et la liberté de religion, se trouve à l'annexe A.

[2] L'annexe B énumère les principales décisions portant sur la liberté de religion où l'ACLC a agi à titre d'intervenante. L'annexe C énumère toutes les décisions judiciaires où l'ACLC a agi à titre d'intervenante.

2) Le projet de loi est contraire à la *Charte québécoise* et inacceptable sur le plan constitutionnel, car il
    a. Restreint la liberté de religion,
    b. Restreint le droit à l'égalité et la protection contre la discrimination,
    c. Restreint la liberté d'expression, et
    d. La justification de ces limites ne peut pas se démontrer dans le cadre d'une société libre et démocratique ;
3) La mise en œuvre du projet de loi aurait des conséquences néfastes ; et
4) Le gouvernement québécois devrait renoncer à ce projet de loi.

Exposé général

1) Le projet de loi n° 62 affaiblit la neutralité de l'État

Le but affiché du projet de loi n° 62 est l'affirmation de la neutralité religieuse de l'État. Cet objectif est illustré non seulement par le titre du projet de loi et son préambule, mais aussi à travers son dispositif. Par exemple, l'article premier précise : « Considérant la neutralité religieuse de l'État, la présente loi a pour objet d'établir des mesures visant à en favoriser le respect. À cette fin, elle impose notamment aux membres du personnel des organismes publics le devoir de neutralité religieuse dans l'exercice de leurs fonctions. » De la même manière, en vertu de l'article 4, les membres du personnel d'organismes publics (ci-après, « le personnel de l'État ») doivent « faire preuve de neutralité religieuse dans l'exercice de [leurs] fonctions. »

La neutralité religieuse de l'État est certes un objectif que soutient l'ACLC, mais cet objectif est déjà reconnu en droit canadien comme en droit québécois.[3] La neutralité implique que tout individu, quelles que soient ses croyances ou appartenances religieuses, mérite l'égalité de traitement. L'État ne doit pas favoriser certaines convictions religieuses (ou les citoyens qui adhèrent à certaines convictions). Cette approche à la neutralité de l'État comporte avec l'obligation constitutionnelle d'interpréter la *Charte québécoise* et la *Charte canadienne* en tenant compte de « l'objectif de promouvoir le maintien et la valorisation du patrimoine multiculturel des Canadiens » (article 27 de la *Charte canadienne*). Cette obligation sous-entend la promotion et l'amélioration de la diversité.[4]

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[3] L'ACLC reconnaît que la neutralité absolue est impossible à réaliser. L'objectif de la neutralité est néanmoins en accord avec les droits et libertés constitutionnels et quasi constitutionnels reconnus au Canada depuis des décennies. Comme la Cour suprême du Canada a tranché dans l'arrêt *SL c Commission scolaire des Chênes*, 2012 CSC 7, au paragraphe 32 : « [S]uivant une approche réaliste et non absolutiste, la neutralité de l'État est assurée lorsque celui-ci ne favorise ni ne défavorise aucune conviction religieuse; en d'autres termes, lorsqu'il respecte toutes les positions à l'égard de la religion, y compris celle de n'en avoir aucune, tout en prenant en considération les droits constitutionnels concurrents des personnes affectées. »

[4] Dans l'arrêt *Mouvement laïque québécois c Saguenay (Ville)*, 2015 CSC 16, le juge Gascon (au nom de la majorité de la Cour suprême) décrit l'obligation de neutralité enchâssée dans l'article 2(a) de la *Charte canadienne* et l'article 3 de la *Charte québécoise*. Comme l'explique le juge Gascon : « [U]n espace public neutre ne signifie pas l'homogénéisation des acteurs privés qui s'y trouvent. La neutralité est celle des institutions et

Le projet de loi n° 62 ne soutient pas ces objectifs, il les affaiblit. Loin d'être neutre par rapport à la religion, et loin d'assurer l'égalité de traitement de tout individu, le projet de loi privilégie certaines pratiques religieuses par rapport à d'autres. L'article 9 vise spécifiquement les Québécois dont le visage est couvert pour des motifs religieux, tout en exemptant d'autres individus, incluant ceux qui couvrent d'autres parties de leurs corps (ex. les genoux, les coudes, les jambes) pour des raisons religieuses, culturelles ou sociales. Cette approche n'est pas neutre. Elle fait preuve de parti pris, car elle sous-entend que les Québécois portant des habits qui couvrent leurs visages représentent un écart par rapport à la « norme ».

L'ACLC soutient l'objectif de la laïcité, dans le sens d'une séparation entre les fonctions de l'État et la religion. Bien qu'on puisse soutenir que la séparation totale ne soit pas possible, du moins la laïcité exige que les croyances religieuses ne soient pas utilisées pour dicter les politiques de l'État[5] et que l'État ne s'immisce pas dans des affaires religieuses privées. Cela inclut les tentatives de l'État de s'immiscer dans des affaires privées au nom de la neutralité religieuse. Par exemple, dans l'arrêt *École secondaire Loyola c Québec (Procureur général)*, la Cour suprême conclut que l'imposition d'un programme apparemment « neutre » sur une école secondaire catholique privée est inconstitutionnelle et non pas neutre. Le programme obligeait l'école à enseigner la doctrine catholique d'un point de vue dicté par l'État, plutôt que de l'enseigner d'après sa propre conception du catholicisme.[6] Comme le reconnaît la Cour suprême, la neutralité religieuse suppose la tolérance pour les pratiques religieuses privées – un objectif qui est

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de l'État, non celle des individus. Un espace public neutre, libre de contraintes, de pressions et de jugements de la part des pouvoirs publics en matière de spiritualité, tend au contraire à protéger la liberté et la dignité de chacun. De ce fait, la neutralité de l'espace public favorise la préservation et la promotion du caractère multiculturel de la société canadienne que consacre l'art. 27 de la Charte canadienne. Cet article implique que l'interprétation du devoir de neutralité de l'État se fait non seulement en conformité avec les objectifs de protection de la Charte canadienne, mais également dans un but de promotion et d'amélioration de la diversité » (paragraphe 74, citations omises).

[5] Soulignons l'arrêt *Chamberlain c Surrey School District No 36*, 2002 CSC 86, qui porte sur une disposition légale exigeant que les écoles publiques « fonctionnent selon des principes strictement laïques et non confessionnels ». La juge en chef McLachlin, écrivant pour la majorité de la Cour suprême, a statué au par 19 : « Le fait que la *School Act* insiste sur la stricte laïcité ne signifie pas que les considérations religieuses n'ont aucune place dans les débats et les décisions du conseil scolaire. Les conseillers scolaires ont le droit et, en fait, le devoir, aux réunions du conseil, de faire valoir les points de vue des parents et de la collectivité qu'ils représentent. La religion jouant un rôle important dans de nombreux milieux, ces points de vue seront souvent dictés par des considérations religieuses. La religion est un aspect fondamental de la vie des gens, et le conseil scolaire ne peut en faire abstraction dans ses délibérations. Toutefois, l'exigence de laïcité fait en sorte que nul ne peut invoquer les convictions religieuses des uns pour écarter les valeurs des autres. Bien que le conseil scolaire puisse tenir compte des préoccupations religieuses des parents, l'exigence de laïcité l'oblige à accorder une même reconnaissance et un même respect aux autres membres de la collectivité. »

[6] Dans *École secondaire Loyola c Québec (Procureur général)*, 2015 CSC 12, la juge Abella (au nom de la majorité de la Cour suprême), indique au paragraphe 63 : « Bien que, en l'espèce, l'objectif de l'État soit laïque, obliger les enseignants de Loyola à adopter un point de vue neutre même lorsqu'ils parlent du catholicisme équivaut à dicter à ceux-ci la manière dont ils doivent enseigner la religion qui constitue l'identité même de Loyola. Cela revient à exiger d'un établissement catholique qu'il traite du catholicisme selon des modalités définies par l'État plutôt que d'après sa propre conception du catholicisme. »

miné par le projet de loi n° 62, en particulier par l'inégalité de traitement des individus qui couvrent le visage pour des motifs religieux.

2) Le projet de loi n° 62 est inconstitutionnel

a. Le projet de loi porte atteinte à la liberté de religion, la liberté d'expression et le droit à l'égalité

La pierre d'assise du projet de loi n° 62, l'article 9 interdit au personnel de l'État et aux citoyens qui interagissent avec le personnel de l'État de couvrir le visage, « sauf [si le membre du personnel] est tenu de le couvrir, notamment en raison de ses conditions de travail ou des exigences propres à ses fonctions ou à l'exécution de certaines tâches. » Cette interdiction vise directement la liberté de religion et la liberté d'expression des employés publics et des bénéficiaires de services publics. À leur face même, ces dispositions portent atteinte à l'article 3 de la *Charte québécoise* et aux articles 2(a) et 2(b) de la *Charte canadienne*. Elles obligent les individus qui couvrent leur visage pour des motifs religieux sincères à dévoiler leur visage dans le cadre des services publics, à moins qu'ils ne bénéficient d'une exception étroite établi par le projet de loi ou d'un accommodement.[7] Cependant, le processus d'accommodement envisagé par l'article 9 repose sur des normes vagues et implicitement méfiantes de ceux qui couvrent leur visage pour des motifs religieux.

En outre, le projet de loi n° 62 aurait un effet préjudiciable sur les membres de plusieurs communautés minoritaires. Comme indiqué ci-dessus, le projet de loi n'impose pas un fardeau sur les Québécois qui ne couvrent pas leur visage pour des motifs religieux, mais il aurait un effet préjudiciable important sur d'autres citoyens – surtout sur les femmes qui appartiennent à des minorités religieuses, ethniques or raciales. Ceci constitue la discrimination, point à la ligne. Par conséquent, le projet de loi porte atteinte au droit à l'égalité enchâssé à l'article 10 de la *Charte québécoise* et à l'article 15(1) de la *Charte canadienne*.

b. Le projet de loi ne constitue pas une limite raisonnable aux droits et libertés des Québécois

Selon une jurisprudence bien établie, toute violation ou restriction d'un droit constitutionnel doit viser un objectif urgent et réel. On doit démontrer qu'il existe un lien rationnel et proportionnel entre l'objectif visé et l'atteinte portée au droit en question.[8] Pour les motifs qui suivent, le projet de loi n° 62 ne rencontre pas ces exigences.

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[7] La liberté de religion comporte la liberté de manifester ses croyances religieuses sincères : *Syndicat Northcrest c Amselem*, 2004 CSC 47 ; *Multani c Commission scolaire Marguerite-Bourgeoys*, 2006 CSC 6 ; *SL c Commission scolaire des Chênes*, 2012 CSC 7.

[8] Les tribunaux ont reconnu que l'article 9.1 de la *Charte québécoise* correspond à l'article premier de la *Charte canadienne*, en ce qui concerne l'action législative et les limites raisonnables sur les droits et libertés fondamentaux. Voir, par exemple, *Chaoulli c Québec (Procureur général)*, 2005 CSC 35 au par 46.

En premier lieu, l'article 9 du projet de loi vise explicitement à limiter la liberté d'expression et de religion. Les tribunaux s'accordent pour dire qu'un texte législatif qui prétend imposer une pratique religieuse obligatoire ne sera jamais jugé raisonnable.[9] De même, toute loi qui prend pour objet premier l'interdiction d'une pratique religieuse ne peut pas être considérée raisonnable. L'objectif du projet de loi n° 62 peut être qualifié comme tel et, par conséquent, les restrictions qu'il impose sur les droits protégés sont inacceptables.

À défaut, dans la mesure où l'objectif ciblé est la simple affirmation de la neutralité religieuse et la laïcité, l'ACLC reconnaît l'importance de cet objectif. Cependant, ces principes fondamentaux sont déjà fermement enracinés dans les chartes québécoise et canadienne. Il n'existe aucune preuve démontrant que ces principes sont menacés au Québec[10] ou que les mesures proposées combleraient une lacune réelle.

En deuxième lieu, le projet de loi n° 62 est truffé de dispositions contradictoires qui démentent la prétention que son objectif est de garantir la neutralité de l'État. Ces dispositions démontrent qu'il n'existe aucun lien rationnel entre le texte législatif et les objectifs apparents du gouvernement. Prenons trois exemples :

1) Afin de confirmer la neutralité de l'État, tout employé du secteur public serait privé du droit d'exprimer son identité personnelle par l'entremise de certains choix vestimentaires, en vertu de l'article 9. En même temps, en vertu de l'article 13, le projet de loi ne peut être interprété « comme ayant un effet sur les éléments emblématiques ou toponymiques du patrimoine culturel du Québec, notamment du patrimoine culturel religieux, qui témoignent son parcours historique. »

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[9] Dans l'arrêt *R c Big M Drug Mart*, [1985] 1 RCS 295 aux pages 336-337 et 351, la Cour suprême du Canada a tranché : « Le concept de la liberté de religion se définit essentiellement comme le droit de croire ce que l'on veut en matière religieuse, le droit de professer ouvertement des croyances religieuses sans crainte d'empêchement ou de représailles et le droit de manifester ses croyances religieuses par leur mise en pratique et par le culte ou par leur enseignement et leur propagation. Toutefois, ce concept signifie beaucoup plus que cela. [...] La liberté signifie que, sous réserve des restrictions qui sont nécessaires pour préserver la sécurité, l'ordre, la santé ou les mœurs publics ou les libertés et droits fondamentaux d'autrui, nul ne peut être forcé d'agir contrairement à ses croyances ou à sa conscience. [...] La *Charte* reconnaît à tous les Canadiens le droit de déterminer, s'il y a lieu, la nature de leurs obligations religieuses et l'état ne peut prescrire le contraire. »

[10] Les tribunaux ont rejeté la proposition que le simple fait d'observer les pratiques religieux d'autres citoyens serait en soi une violation de la liberté de religion. Dans l'affaire *Grant c Canada (Procureur général)*, [1995] 1 CF 158, la Cour fédérale a rejeté l'argument qu'une politique autorisant les membres sikhs de la GRC à porter le turban comme élément de leur uniforme menaçait la liberté de religion des Canadiens : « On ne m'a pas convaincue que les rapports entre un policier dont l'uniforme comporte un symbole de sa religion et un membre de la population portent atteinte à la liberté de religion de ce dernier. Ces rapports ne sont pas nécessairement de nature religieuse. [...] [J]e ne vois aucune contrainte ni coercition exercée sur ce dernier qui le forcerait à adopter ou à partager les croyances ou les pratiques religieuses du policier. La seule activité imposée à la personne qui traite avec un tel policier est de constater l'appartenance religieuse du policier. »

2) Selon l'article 6, « Le devoir de neutralité religieuse ne peut avoir pour effet d'empêcher un professionnel de la santé de ne pas recommander ou de ne pas fournir des services professionnels en raison de ses convictions personnelles, tel que la loi le lui permet. » Cette disposition reconnait que l'on ne peut pas s'attendre à ce que certains individus, même s'ils travaillent dans le secteur public, laissent leurs convictions personnelles au vestiaire. Ainsi, dans certains cas, les employés de l'État peuvent s'abstenir de fournir des services professionnels, et ce, pour des raisons de conscience (y compris des raisons religieuses). Il est contradictoire que le projet de loi permet à un médecin de refuser de fournir un service professionnel pour des raisons de conscience, tout en obligeant un individu qui désire couvrir son visage pour des raisons de conscience à se soumettre à un processus d'accommodement onéreux, sous le prétexte qu'un accommodement religieux dans ce contexte serait considéré une violation de la neutralité de l'État.

3) L'article 10 prévoit qu'un employé de l'État peut refuser une demande d'accommodement au nom de l'égalité entre les hommes et les femmes. Toutefois, le projet de loi n° 62 aura un impact particulièrement néfaste sur les femmes de certaines communautés minoritaires. En effet, l'article 9 impose une obligation d'avoir le visage découvert, non seulement pour le personnel de l'État mais également pour les citoyens recevant des prestations de services. Cette interdiction radicale semble viser, en particulier, les femmes de confession musulmane qui portent le *niqab*. De toute évidence, il n'existe aucun lien rationnel entre l'objectif visé (la neutralité de l'État) et l'exigence que les bénéficiaires de services gouvernementaux dévoilent leurs visages. De plus, la décision de refuser l'accès à des services à une femme pour la simple raison qu'elle porte un habit particulier (en l'absence d'une justification liée à la sécurité ou l'identification) va à l'encontre de l'égalité entre les femmes et les hommes. Cette politique suggère que les femmes n'ont pas la capacité de choisir, en toute liberté et sans l'intervention de l'État, les vêtements qu'elles portent.

En troisième lieu, la jurisprudence insiste qu'une limite sur les droits fondamentaux doit restreindre les droits en cause aussi peu qu'il est raisonnablement possible de le faire. Sur ce plan, le projet de loi n° 62 ne constitue pas une atteinte minimale aux droits en cause. Loin d'être soigneusement adapté à l'objectif visé, le projet de loi prône une approche globale : ses interdictions s'appliquent à un large éventail d'employés du secteur public, peu importe leur position ou la nature de leur interaction avec le public.[11] La portée du projet de loi est extrêmement vaste, car il affecte de nombreux individus qui ne sont pas typiquement associés à l'État ou perçus comme ses représentants : médecins, infirmiers,

[11] Dans l'arrêt *R c NS*, 2012 CSC 72, la Cour suprême du Canada a considéré comment l'État devrait répondre à une personne appelée à témoigner dans une instance criminelle qui, pour des motifs religieux sincères, souhaite porter le niqab pendant son témoignage. La juge en chef McLachlin a noté au par 2 : « Une réponse laïque obligeant les témoins à laisser de côté leur religion à l'entrée de la salle d'audience est incompatible avec la jurisprudence et la tradition canadienne, et restreint la liberté de religion là où aucune limite n'est justifiable. »

professeurs et administrateurs d'université, éducateurs dans les garderies subventionnées en milieu familial, conducteurs de véhicules de transport en commun. En effet, l'application du projet de loi aux services de garde subventionnés montre bien la nature intrusive de ce projet. Ses dispositions prétendent limiter les vêtements qu'un éducateur peut porter dans sa propre maison. L'article 9 du projet de loi va encore plus loin, étendant l'obligation d'avoir le visage découvert à tout individu qui souhaite recevoir un service public, que ce soit une mère qui va chercher son enfant à la garderie ou un individu qui reçoit des soins de santé d'un médecin.

Malgré la norme selon laquelle les fonctionnaires ne devraient pas étaler leurs convictions politiques dans l'exercice de leurs fonctions, les tribunaux ont invalidé plusieurs lois qui plaçaient des restrictions démesurées sur l'expression ou les activités politiques d'employés du secteur public.[12] L'ACLC ne souhaite surtout pas suggérer que l'obligation d'avoir le visage découvert pourrait résister à l'analyse constitutionnelle si elle visait un groupe plus restreint d'employés de l'État. Au contraire, en l'absence de preuve indiquant que le fait de se couvrir le visage aurait un impact significatif sur la neutralité religieuse de l'État, l'interdiction de se couvrir le visage ne peut être justifiée que pour des raisons de santé ou de sécurité ou des raisons liées à l'exercice de fonctions professionnelles (ex. avoir le visage couvert serait incompatible avec une exigence professionnelle justifiée).

L'approche aux accommodements raisonnables proposée par le projet de loi n° 62 ne résout pas ces difficultés. Contrairement aux autres citoyens, les Québécois ayant des croyances religieuses qui les obligent à se couvrir le visage devront participer à un régime d'accommodements fondé sur la prémisse que leurs croyances méritent la suspicion. Au mieux, ces individus seront tenus de justifier leurs pratiques religieuses dans le contexte d'un processus d'accommodement qui ne s'applique qu'aux Québécois qui se couvrent le visage. Au pire, ces individus se verront refuser un accommodement par un employé de l'État qui pourrait être un simple superviseur ou prestataire de services et qui (dans la plupart des cas) n'aura pas de formation juridique. L'individu sera alors obligé de choisir entre ses croyances religieuses sincères et son emploi ou son accès aux services publics. De plus, les principes qui justifient la décision de rejeter une demande d'accommodement sont précisément les principes qui sous-tendent l'interdiction de se couvrir le visage – c'est-à-dire, la neutralité religieuse et l'égalité de traitement – créant un cercle vicieux. En refusant une demande d'accommodement, l'employé de l'État peut invoquer « le droit à l'égalité entre les femmes et les hommes » (article 10(2)) tout en imposant une conception non-neutre de l'égalité des sexes sur des femmes qui ne souscrivent pas à cette conception de l'égalité. De même, l'employé peut invoquer « le principe de la neutralité religieuse de l'État » (article 10(3)) pour justifier sa décision de nier l'expression de foi religieuse de la part d'un autre employé ou d'un bénéficiaire d'un service public.

Pour conclure, l'ACLC aimerait adresser les dispositions du projet de loi qui prétendent établir des balises pour encadrer les accommodements religieux. Les tribunaux ont déjà tracé les grandes lignes de

[12] Voir, par exemple, *Fraser c CRTFP*, [1985] 2 RCS 455 et *Osborne c Canada (Conseil du Trésor)*, [1991] 2 RCS 69.

la jurisprudence à ce sujet : on doit évaluer, au cas par cas, si un accommodement est raisonnable dans les circonstances ou si cet accommodement représente une contrainte excessive.[13] Les articles 9 et 10 du projet de loi n° 62 auraient l'effet de miner cette jurisprudence et de créer de plus grandes incertitudes dans un domaine juridique où un certain consensus existe déjà. De plus, le gouvernement ne devrait pas instituer une différente approche pour traiter les demandes d'accommodement sur le plan religieux, par opposition aux demandes basées sur d'autres motifs (par exemple, le handicap). Cette approche risque d'affaiblir le droit à l'égalité contre toute forme de discrimination et de créer une hiérarchie de droits, à l'encontre du principe que tous les droits ont la même valeur juridique.

3) La mise en œuvre du projet de loi aurait des conséquences néfastes

Le projet de loi n° 62 comporte des propositions radicales, ébranlant de manière fondamentale les relations entre le gouvernement du Québec et ses citoyens. En imposant des restrictions importantes sur les libertés de religion et d'expression de certaines minorités, le projet de loi laisse entendre que ces individus ne sont pas les bienvenus dans la société québécoise, qu'ils sont moins dignes de respect, qu'ils n'appartiennent pas à la collectivité québécoise. Le projet de loi aurait un impact particulièrement néfaste sur les femmes qui seraient contraintes de faire un choix impossible : rester fidèle à leurs convictions religieuses ou conserver leurs emplois et maintenir l'accès aux services de base. Ce sont des conséquences inquiétantes. De même, puisque le projet de loi aurait un effet préjudiciable sur les membres de certaines communautés religieuses et culturelles, il risque de fragiliser la cohésion et l'intégration sociale.

L'article 9 du projet de loi impose une obligation d'avoir le visage découvert, tant pour fournir que pour recevoir les services publics. Cette proposition semble s'adresser spécifiquement à la pratique d'une minorité de femmes musulmanes qui portent le voile intégral (le *niqab* ou la *burqa*). À cet égard, l'ACLC craint que cette loi risque d'avoir un effet isolant sur les femmes québécoises qui choisissent se couvrir le visage. Par exemple, quand le gouvernement québécois a proposé la « Charte des valeurs », incluant des propositions analogues au projet de loi n° 62, le Québec a connu une augmentation inquiétante de violence et de harcèlement des femmes musulmanes.[14] Nous tenons également à souligner la propagation d'idées fausses quant à la signification du voile intégral (ainsi qui d'autres couvre-chefs portés par des femmes musulmanes, comme le *hijab*), la motivation des femmes qui les portent et la question à savoir s'il s'agit véritablement de leur choix. La décision de se couvrir le visage est une

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[13] Voir, par exemple, *Multani c Commission scolaire Marguerite-Bourgeoys*, 2006 CSC 6 aux par 52-54.
[14] Voir, par exemple, Olivier Parent, « Une femme voilée invective en plein Centre commercial » (*Le Soleil*, 15 septembre 2013), disponible en ligne : http://www.lapresse.ca/le-soleil/actualites/societe/201309/14/01-4689514-une-femme-voilee-invectivee-en-plein-centre-commercial.php ; David Rémillard, « Charte des valeurs : des femmes déchirées » (*Le Soleil*, 16 septembre 2013), disponible en ligne : http://www.lapresse.ca/le-soleil/actualites/societe/201309/16/01-4689664-charte-des-valeurs-des-femmes-dechirees.php ; et Katia Gagnon et Tommy Chouinard, « Femmes voilées : « augmentation dramatique » des agressions » (*La Presse*, 2 octobre 2013), disponible en ligne : http://www.lapresse.ca/actualites/201310/02/01-4695572-femmes-voilees-augmentation-dramatique-des-agressions.php.

décision personnelle qui peut être motivée par plusieurs différentes raisons.[15] De plus, l'article 9 du projet de loi suppose que l'État ait le droit d'imposer des conditions sur la prestation de services aux citoyens, et que les membres du public doivent toujours s'identifier aux représentants de l'État, quel que soit le service qu'ils recherchent. Ces dispositions n'ont aucune place dans une société libre et démocratique.

4) Recommandation de l'ACLC: Le gouvernement québécois devrait renoncer à ce projet de loi

À la lumière de ces observations, l'ACLC recommande que le gouvernement renonce à tout débat ou examen du projet de loi n° 62. Bien que le projet de loi ait certains objectifs qui sembleraient louables, ces objectifs font déjà l'objet d'amples garanties dans le droit québécois comme dans le droit canadien. Il n'existe aucune preuve d'une crise ou problème quelconque en ce qui concerne la neutralité de l'État et, à ce titre, il n'existe aucune justification pour la violation du droit à l'égalité et des libertés de religion et d'expression des Québécois. L'ACLC encourage le gouvernement du Québec de renoncer au projet de loi n° 62 – projet qui porterait atteinte à la neutralité de l'État et qui aurait des conséquences néfastes pour les Québécois, en particulier les femmes qui sont membres de groupes religieux minoritaires.

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[15] Pour un exemple de recherche qualitative sur les raisons qui motivent les femmes à porter le *niqab*, voir Eva Brems, Yaiza Janssens, Kim Lecoyer, Saila Ouald Chaib and Victoria Vandersteen, *Wearing the Face Veil in Belgium: Views and Experiences of 27 Women Living in Belgium Concerning the Islamic Full Face Veil and the Belgian Ban on Face Covering,* Human Rights Centre, Ghent University (1 juin 2010). Disponible en ligne : www.ugent.be/re/publiekrecht/en/research/human-rights/faceveil.pdf.

SUBMISSIONS (ENGLISH VERSION)

The Canadian Civil Liberties Association (CCLA) provides these submissions as part of the Committee on Institutions' special consultations on Bill 62: *An Act to foster adherence to State religious neutrality and, in particular, to provide a framework for religious accommodation requests in certain bodies* (hereinafter "Bill 62" or "the Bill"). **CCLA requests the opportunity to appear before the Committee, at any hearings that may be held, in order to more fully engage with the Committee on the important issues raised by Bill 62.**

About CCLA

CCLA is a national, non-profit, non-partisan, non-governmental organization that has existed since 1964 to promote and defend civil liberties, including freedom of religion, freedom of expression, and the right to equality. CCLA has significant expertise on the constitutional protection of these rights and has made submissions to many public bodies on these issues.[16] In addition, CCLA has been involved as an intervener in many of the leading cases on religious freedoms in the Supreme Court of Canada and has always sought to reconcile competing rights and interests that arise in these cases.[17]

Summary of Submissions

CCLA firmly opposes Bill 62, and asserts that many of its provisions are in clear violation of guarantees set out in both the Québec *Charter of Human Rights and Freedoms* ("*Québec Charter*") and the *Canadian Charter of Rights and Freedoms* ("*Canadian Charter*"). While we agree with the underlying principle that the State should be religiously neutral, this principle is already entrenched in the law of Québec and Canada. Moreover, the Bill does not achieve this goal but rather undermines it. Similarly, although this Bill purports to uphold equality rights, in practice the measures that the Bill would put in place would significantly undermine equality rights, and have a particularly negative impact upon women as well as religious, ethnic, and racialized minorities.

These submissions focus on the following points:

1) The Bill undermines the neutrality of the state
2) The Bill is contrary to the *Québec Charter* and the Canadian Charter, and is constitutionally invalid, in that it:
    a. Limits freedom of religion;
    b. Limits the right to equality and freedom from discrimination;
    c. Limits freedom of expression; and
    d. Does so in a manner that cannot be justified in a free and democratic society
3) Implementing the Bill would have negative consequences; and
4) The Bill should be withdrawn.

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[16] See Appendix A which contains a list of selected CCLA submissions on issues related to freedom of expression and freedom of religion.

[17] See Appendix B which contains a list of CCLA court interventions in cases related to freedom of religion. See also Appendix C which contains a list of all of CCLA's court interventions.

1. **Bill 62 Undermines Neutrality**

The Bill asserts that it aims to affirm the value of religious neutrality. This stated objective is illustrated not only in the Bill's title and preamble, but also throughout its operative provisions. For example, section 1 states that "the purpose of this Act is to establish measures to foster adherence to such neutrality" and that "the Act imposes a duty of religious neutrality, in particular, on personnel members of public bodies in the exercise of the functions of office". Similarly, pursuant to section 4, personnel members of public bodies (hereinafter "public employees") "must demonstrate religious neutrality".

The objective of state neutrality with respect to religion is one that CCLA supports and that is already entrenched in Québec and Canadian law.[18] Neutrality means that all individuals, regardless of their religious beliefs or affiliations, should be treated equally. The state should not prefer some beliefs (or those who adhere to certain beliefs) over others. This view of state neutrality is in keeping with the constitutional requirement of interpreting the Quebec Charter and Canadian Charter "in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians" (Canadian Charter, s. 27), a requirement that entails promoting and enhancing diversity.[19]

Bill 62 does not further these goals; it undermines them. Far from being neutral with respect to religion and treating all individuals equally regardless of belief or affiliation, the Bill prefers some religious practices to others. Section 9 specifically targets individuals who have religious beliefs that require them to wear face coverings, while exempting all other individuals, including individuals who may cover other parts of their body (e.g. knees, elbows, legs, etc.) for religious, cultural or social reasons. This approach is not neutral. It is biased and suggests that those whose beliefs require face coverings deviate from a pre-determined "norm".

CCLA supports the goal of religious neutrality insofar as separating the functions of the state and religion. Although total separation is arguably not possible, this requires that religious beliefs are not

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[18] CCLA acknowledges that absolute neutrality is not possible to achieve. Nevertheless, the goal of neutrality is in keeping with the constitutional and quasi-constitutional rights and freedoms that have been recognized in Canada for decades. As the Supreme Court of Canada recently held in *S.L. v. Commission scolaire des Chênes,* 2012 SCC 7, at para. 32: "...following a realistic and non-absolutist approach, state neutrality is assured when the state neither favours nor hinders any particular religious belief, that is, when it shows respect for all postures towards religion, including that of having no religious beliefs whatsoever, while taking into account the competing constitutional rights of the individuals affected."

[19] As stated by Gascon J, writing for a majority of the Supreme Court in *Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, in a passage interpreting the obligation of neutrality codified in the jurisprudence surrounding s. 2(a) of the *Canadian Charter* and s. 3 of the *Quebec Charter*: "[A] neutral public space does not mean the homogenization of private players in that space. Neutrality is required of institutions and the state, not individuals. On the contrary, a neutral public space free from coercion, pressure and judgment on the part of public authorities in matters of spirituality is intended to protect every person's freedom and dignity. The neutrality of the public space therefore helps preserve and promote the multicultural nature of Canadian society enshrined in s. 27 of the *Canadian Charter*. Section 27 requires that the state's duty of neutrality be interpreted not only in a manner consistent with the protective objectives of the *Canadian Charter*, but also with a view to promoting and enhancing diversity" (citations omitted) (para. 74).

used to dictate state policy[20] and that the state does not intrude into private religious matters. This includes state attempts to intrude into private religious matters in the name of religious neutrality. For instance, in *Loyola High School v. Quebec (Attorney General)*, the Supreme Court held that the state's imposition of an ostensibly neutral curriculum on a private Catholic high school was unconstitutional and non-neutral because it compelled the school to teach Catholic doctrine from the state's purportedly neutral understanding of Catholicism as opposed to the school's own understanding.[21] As recognized by the Supreme Court, religious neutrality must include state tolerance for private religious practices, a goal that is undermined by Bill 62's unequal treatment of individuals who wear face coverings for religious reasons.

2. Bill 62 Is Constitutionally Invalid

a. Bill 62 Violates Freedom of Religion, Freedom of Expression and the Right to Equality

At the core of Bill 62 is section 9, which prohibits public employees and recipients of services from public employees from wearing face coverings "unless they have to cover their face, in particular because of their working conditions or because of occupational or task-related requirements". These provisions are aimed directly at, and have the objective of, limiting the freedom of religion and freedom of expression guarantees of public employees and recipients of public services. On their face, these provisions infringe s. 3 of the *Québec Charter* and ss. 2(a) and (b) of the *Canadian Charter,* by requiring individuals whose sincerely held religious beliefs require them to wear a face covering, to remove these while at work or while receiving public services, unless they fall within the limited categories protected by the Bill or unless they receive a special accommodation via an accommodation process that employs standards that are vague and impliedly suspicious of religious face coverings.[22]

The Bill also operates in a manner that has an adverse impact on individuals who hold certain religious beliefs. As set out above, while Bill 62 does not impose a burden on individuals who do not wear any

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[20] In a case that considered a statutory requirement that schools be conducted on "strictly secular and non-sectarian principles" McLachlin C.J., speaking for the majority of the Supreme Court in *Chamberlain v. Surrey School District No. 36,* 2002 SCC 86 held at para. 19: "The Act's insistence on strict secularism does not mean that religious concerns have no place in the deliberations and decision of the [school] Board. Board members are entitled, and indeed required, to bring the views of the parents and communities they represent to the deliberation process. Because religion plays an important role in the life of many communities, these views will often be motivated by religious concerns. Religion is an integral aspect of people's lives, and cannot be left at the boardroom door. What secularism does rule out, however, is any attempt to use the religious views of one part of the community to exclude from consideration the values of other members of the community. A requirement of secularism implies that, although the Board is indeed free to address the religious concerns of parents, it must be sure to do so in a manner that gives equal recognition and respect to other members of the community."

[21] In *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12, Abella J, speaking for a majority of the Supreme Court, stated at para. 63: "Although the state's purpose here is secular, requiring Loyola's teachers to take a neutral posture even about Catholicism means that the state is telling them how to teach the very religion that animates Loyola's identity. It amounts to requiring a Catholic institution to speak about Catholicism in terms defined by the state rather than by its own understanding of Catholicism."

[22] Freedom of religion is analyzed having regard to the sincerity of an individual's belief. (See *Syndicat Northcrest v. Amselem,* 2004 SCC 47; *Multani v. Commission scolaire Marguerite-Bourgeoys,* 2006 SCC 6; and *S.L. v. Commission scolaire des Chênes,* 2012 SCC 7*)*.

face coverings related to their religious beliefs, it has a significant and adverse impact on others, and primarily on women who belong to religious, ethnic, or racialized minorities. This is discrimination *simpliciter*. As a result, the Bill also infringes the right to equality enshrined in s. 10 of the *Québec Charter* and s. 15(1) of the *Canadian Charter*.

b. The Rights Violations Are Not Justified

In accordance with well-known constitutional principles, any violation, infringement or limit on a constitutional right that is fixed by law must be connected to a pressing and substantial objective and must be both rationally connected and proportional to that objective.[23] For the reasons outlined further below, Bill 62 does not meet these requirements.

First, section 9 of Bill 62 is aimed at curbing freedom of religious expression. Courts have recognized that where the very purpose of a statute is to compel religious observance and custom, this will not be considered a reasonable limit on freedom of religion.[24] Similarly, a law with the purpose of prohibiting religious observance in certain situations is also not reasonable. Bill 62 can be characterized as having such a purpose and, as such, is not a reasonable limit on protected rights.

Alternatively, to the extent that the purpose of Bill 62 is characterized as affirming religious neutrality, CCLA agrees that these are important goals. However, as set out above, these principles are already entrenched in the *Canadian Charter* and the *Québec Charter.* There is no evidence that these principles are threatened in any way[25] or that there is a need for the measures included in Bill 62.

Second, Bill 62 is riddled with contradictory provisions that belie the claim that its goal is to ensure the neutrality of the State. These provisions demonstrate that there is no rational connection between the Bill's provisions and its objectives. Three examples are useful in illustrating this point.

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[23] Section 9.1 of the *Québec Charter* has been found to be of the same nature as s. 1 of the *Canadian Charter* when applied to limits placed on rights and freedoms imposed by law. See e.g. *Chaoulli v. Quebec (Attorney General),* 2005 SCC 35 at paras. 46-8.

[24] The Supreme Court of Canada in *R. v. Big M Drug Mart Ltd.,* [1985] 1 S.C.R. 295 at 336-337 and 351 noted that "The essence of the concept of freedom of religion is the right to entertain such religious beliefs as a person chooses, the right to declare religious beliefs openly and without fear of hindrance of reprisal, and the right to manifest religious belief by worship and practice or by teaching and dissemination. But the concept means more than that. ...Freedom means that, subject to such limitations as are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others, no one is to be forced to act in a way contrary to his beliefs or his conscience. ...With the *Charter,* it has become the right of every Canadian to work out for himself or herself what his or her religious obligations, if any, should be and it is not for the state to dictate otherwise."

[25] Courts have rejected the suggestion that being forced to simply observe someone else's religious behaviour violates one's rights. In *Grant v. Canada (Attorney General),* [1995] 1 FC 158, the Court rejected the argument that the religious freedoms of Canadians were violated by virtue of the fact that Sikh RCMP officers had been permitted to wear a turban as part of their uniform, stating at para. 84: "I have not been persuaded that the interaction of a member of the public with a police officer who carries an identification of his religious persuasion as part of his uniform, constitutes an infringement of the former's freedom of religion. There is no necessary religious content to the interaction between the two individuals...I do not see any compulsion or coercion on the member of the public to participate in, adopt or share the officer's religious beliefs or practices. The only action demanded from the member of the public is one of observation."

1) In order to further the neutrality of the State, all individual employees of the State are stripped of their rights to engage, without seeking accommodation, in certain religious practices (s. 9). At the same time, by virtue of s. 13 of the Bill, measures introduced by the Bill do not affect "the emblematic and toponymic elements of Québec's cultural heritage, in particular its religious cultural heritage, that testify to its history".

2) Section 6 provides that "The duty of religious neutrality does not prevent health professionals from refraining from recommending or providing professional services because of their personal convictions, as permitted by law". This section explicitly recognizes that some individuals, despite being public employees, simply cannot be expected to check their beliefs at their workplace door. Thus, in some cases public employees may refrain from providing certain services on the basis of conscientious (including religious) beliefs. It is completely irrational that Bill 62 allows a physician to expressly refuse to provide a service on the basis of his/her religious beliefs, with no apparent concern for the principle of state neutrality, whereas it subjects an individual who wishes to wear a face covering for religious reasons to a targeted and onerous accommodation regime, on the grounds that religious exemptions for head coverings may violate the principle of state neutrality.

3) Section 10(b) affirms the principle of equality between men and women as a reason for denying an accommodation request. As set out further below, however, it is likely that Bill 62 will have a particularly adverse effect on women from certain minority groups. Indeed, s. 9 of the Bill includes an obligation to have one's face uncovered for public employees, as well as for persons receiving services from such employees. This sweeping provision appears aimed in particular at women of Muslim faith who wear a niqab or burqa. Clearly, there is no rational link between the goal of state neutrality and the requirement that *recipients* of government services not don a particular piece of religious clothing. Further, denying services to a woman based on her clothing, absent any compelling need based on security concerns or to verify identity, undermines equality between men and women, suggests that women may not make their own choices about attire, and restricts women's choices of employment and use of public services.

Third, in order for limits on rights to be considered reasonable, they must impair rights no more than necessary. In this regard as well, Bill 62 cannot survive. Far from being narrowly tailored to achieve a particular objective, the Bill takes a sweeping approach in applying its restrictions to a large number of public employees regardless of their positions or interactions with the public. It dictates to <u>all</u> public employees what they can and cannot wear in performance of their duties which in itself is not a limited impairment, and does so with little regard to the role the employee plays and/or the nature of their interactions with members of the public.[26] The scope of the Bill is extremely broad and covers many

[26] In *R. v. N.S.*, 2012 SCC 72, the Supreme Court of Canada considered how the state should address a witness who wishes to testify in Court while wearing a niqab, in accordance with sincerely held religious beliefs. McLachlin C.J. noted at para. 2: "A secular response that requires witnesses to park their religion at the courtroom door is inconsistent with the jurisprudence and Canadian tradition, and limits freedom of religion where no limit can be justified."

individuals who are not typically associated with the State or seen as its representatives, including physicians, nurses, university professors and administrators, home daycare operators (subsidized), and drivers employed by public transit authorities. The Bill's application to subsidized daycares demonstrates how intrusive Bill 62 is; its provisions effectively tell individuals that they may not wear items they feel are religiously mandated in their own homes. Section 9 of the Bill then multiplies this ambit by applying the prohibition on face coverings to any individual seeking a public service, such as a mother picking up her child from daycare, or an individual visiting a physician for medical care.

Notwithstanding the generally accepted convention that civil servants should not demonstrate their political views in carrying out their functions, laws that place broad restrictions on the political expression or activities of public servants have been successfully challenged.[27] CCLA does not wish to suggest that a ban on wearing religious symbols would withstand constitutional scrutiny if it were confined to a smaller group of public employees. To the contrary, CCLA contends that, absent any compelling evidence that the wearing of face coverings has a meaningful impact on the state's neutrality with respect to religion, restrictions on the wearing of face coverings could only be justified for reasons of health and safety, or reasons related to one's ability to perform the duties of their job (i.e. where wearing a particular item would conflict with a *bona fide* occupational requirement).

Bill 62's accommodation regime for individuals who wear face coverings does not resolve these difficulties. Unlike all other individuals, individuals who have religious beliefs that require face coverings are forced to take part in an accommodation regime that begins from a premise of impartial and targeted suspicion regarding their religious beliefs. At best, such individuals are required to justify their religious clothing in an accommodation process that is only statutorily compelled for wearers of face coverings. At worst, individuals are denied accommodation by personnel members, who may be simply a workplace supervisor or service provider, and who in most cases will have little to no legal or adjudicative training. Such a denial then compels the individual to choose between their employment, or their receiving services from public employees, and their sincerely held beliefs. Moreover, the principles that personnel members may employ to deny accommodation requests reintroduce the concepts of religious neutrality and equal treatment that are at the heart of the Bill's prohibition against face coverings. Most notably, in denying an accommodation request, a personnel member can appeal to "the right for equality between women and men" (s. 10(2)) to impose a non-neutral conception of sexual equality on dissenting women, or to "the principle of State religious neutrality" (s. 10(3)) to deny an expression of religious faith by a public employee or a recipient of a public service.

Finally, CCLA wishes to address the portions of Bill 62 that purport to lay out a more general framework for the handling of accommodation requests on religious grounds. The law with respect to reasonable accommodations is already well-developed and requires a case-by-case assessment to determine if an accommodation is reasonable in particular circumstances and whether allowing an accommodation would result in undue hardship.[28] Sections 9 and 10 of Bill 62 would undermine the existing jurisprudence and create confusion in an area of law where some clarity has emerged. Furthermore, a

[27] See e.g. *Fraser v. P.S.S.R.B.,* [1985] 2 S.C.R. 455 and *Osborne v. Canada (Treasury Board),* [1991] 2 S.C.R. 69.
[28] See e.g. *Multani v. Commission scolaire Marguerite-Bourgeoys,* 2006 SCC 6 at paras. 52-54

different approach to reasonable accommodation requests on religious grounds than that applied to accommodation requests with respect to other grounds (e.g. disability) undermines the right to equality on the full spectrum of protected grounds and purports to create a hierarchy of rights contrary to well-established principles.

3. Negative Consequences of the Bill

Bill 62's proposals are radical in nature and would alter the relationship between Québec and its residents in a fundamental way. By placing significant restrictions on the religious and expressive freedoms of a large number of minority individuals, the Bill is signalling that these individuals are less welcome in Québec society, that they are less deserving of respect, and that they don't belong. The Bill would have a particularly negative impact on women who may have to choose between staying true to sincerely held religious beliefs and practices, and maintaining gainful employment or accessing basic services. This is a troubling consequence. In addition, since the Bill will have an adverse impact on individuals from particular religious and cultural backgrounds, it undermines social cohesion and integration.

Section 9 of the Bill imposes an obligation that individuals providing or receiving public services do so with their faces uncovered. This appears to relate specifically to the practice of a very small minority of Muslim women who wear face coverings, such as a niqab or burqa. In this regard, CCLA is concerned that this legislation may have an isolating effect on women who do choose to wear face coverings. For instance, when the previous government proposed a *Charter of Values* with analogous provisions to Bill 62, the result appears to have been an increase in violence and harassment of Muslim women in Québec.[29] We also note that there are widespread misconceptions about the meaning of face coverings such as the niqab and burqa (and other headscarves worn by Muslim women, such as the hijab), and the reasons why women may wear them (including assumptions about coercion). The practice of wearing a religious face covering is a personal matter that may be made for a wide variety of reasons.[30] In addition, section 9 of the Bill assumes that the State can place conditions on the services it will provide to citizens and that members of the public have to identify themselves by showing their faces to a wide range of state officials regardless of their purpose or the service they are seeking. These provisions have no place in a free and democratic society.

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[29] See e.g. Olivier Parent, "Une femme voilée invective en plein Centre commercial" (September 15, 2013) *Le Soleil,* online: http://www.lapresse.ca/le-soleil/actualites/societe/201309/14/01-4689514-une-femme-voilee-invectivee-en-plein-centre-commercial.php; David Rémillard, "Charte des valeurs: des femmes déchirées" (September 16 , 2013) *Le Soleil,* online: http://www.lapresse.ca/le-soleil/actualites/societe/201309/16/01-4689664-charte-des-valeurs-des-femmes-dechirees.php; and Katia Gagnon & Tommy Chouinard, "Femmes voiles: «augmentation dramatique» des agressions" (October 2, 2013) *La Presse,* online: http://www.lapresse.ca/actualites/201310/02/01-4695572-femmes-voilees-augmentation-dramatique-des-agressions.php.

[30] For a qualitative look at reasons behind wearing a niqab see Eva Brems, Yaiza Janssens, Kim Lecoyer, Saila Ouald Chaib and Victoria Vandersteen, *Wearing the Face Veil in Belgium: Views and Experiences of 27 Women Living in Belgium Concerning the Islamic Full Face Veil and the Belgian Ban on Face Covering,* Human Rights Centre, Ghent University (1 June 2010); online at: www.ugent.be/re/publiekrecht/en/research/human-rights/faceveil.pdf.

4. Recommendation: Withdrawal of the Bill

In light of the foregoing submissions, CCLA recommends that Bill 62 be withdrawn from further debate or consideration. Notwithstanding that the Bill purports to be aiming for certain laudable objectives, those objectives are already the subject of existing guarantees in both Québec and Canadian law. There is no evidence of a problem or crisis with respect to the State neutrality and, as such, no justification for infringing the right to equality, freedom of religion and freedom of expression of individuals in Québec. CCLA strongly urges the Québec government not to go down the path proposed by Bill 62, which would undermine neutrality and secularism and have damaging consequences to the Québec population, particularly women from minority religious groups.

Appendix A – CCLA Submissions on Freedom of Expression & Freedom of Religion

1. Submissions to the 1969 Senate Committee on Hate Propaganda;

2. Submissions on November 26, 1970 to the Board of Commissioners of the Metropolitan Toronto Police regarding law enforcement policies in obscenity matters and the CCLA's concerns that freedom of speech and freedom of the press were jeopardized both by legislated censorship and the policing practices adopted to enforce those laws;

3. Submissions to the 1973 Ontario Task Force on Policing, including an analysis entitled "Police and the Rights of Demonstrators", which dealt specifically with demonstrations as a form of expression as well as the appropriateness of placing certain restrictions on demonstrations;

4. Submissions on January 30, 1978 to the Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police regarding the conduct of the Inquiry and the CCLA's concerns that both police lawlessness and excessive police powers threaten the viability of democratic values including democratic dissent and freedom of speech;

5. Submissions on October 3, 1979 to the Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police regarding the Official Secrets Act and the CCLA's concerns that freedom of speech and freedom of the press were threatened by the broad and vague criminal prohibitions in the Act;

6. Submissions on October 3, 1979 to the Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police regarding the War Measures Act and new contemplated peace-time emergency powers and the CCLA's concern that the invocation of powers that restrict civil liberties inflicts substantial injury upon the viability of democratic institutions including freedom of expression;

7. Submissions on March 12, 1980 to the Board of Commissioners of the Metropolitan Toronto Police regarding a police investigation at the Contact School of a classroom speech by a black community leader. The police alleged that the classroom speech affected the rights of certain accused police officers and might have involved the offences of defamatory libel and contempt of court. The CCLA expressed its concerns that such an investigation imperilled freedom of speech and cast a chill over the educational process;

8. Submissions on February 15, 1982 to the Honourable Robert Kaplan, Solicitor General of Canada regarding security, intelligence, and the Report of the McDonald Commission and the CCLA's concerns that there be strong legal safeguards against the unreasonable invasion by a public authority of the freedom and dignity of the individual, including freedom of expression;

9. Letter dated April 19, 1983 to the Honourable R. Roy McMurtry, then the Attorney General for Ontario, regarding the handling by police of demonstrations at the Litton Industries plant in 1982, and conveying the CCLA's concerns regarding the suppression of freedom of expression resulting from police powers to regulate demonstrations;

10. Submissions on September 12, 1983 to the Special Committee of the Senate on the Canadian Security Intelligence Service regarding Bill C-157 - National Security and the CCLA's concerns that there be strong legal safeguards against the unreasonable invasion by public authority of the freedom and dignity of the individual, including freedom of expression;

11. Submissions on February 24, 1984 to the University Students' Council at the University of Western Ontario regarding the ratification of a specific campus group and the CCLA's concerns that the Council's grounds for denying ratification involved discrimination against certain political opinions;

12. Submissions on April 6, 1984 to the Parliamentary Special Committee on Pornography and Prostitution (the Fraser Committee) regarding the potential impact on freedom of expression in the proposed restrictions on pornography;

13. Submissions in 1984 to a parliamentary committee regarding the proposed legislation to establish the Canadian Security Intelligence Service (about which one of the issues was freedom of expression);

14. Submissions in 1985 to a parliamentary committee with respect to proposed legislation regarding soliciting in public places for the purpose of prostitution (about which one of the issues was freedom of expression);

15. Submissions on October 5, 1987 to the Honourable Perrin Beaty, Minister of National Defence regarding Bill C-77 on Emergency Powers and the CCLA's concerns that such emergency powers be narrowly tailored so as not to unnecessarily imperil fundamental freedoms including freedom of speech and the right to peaceful dissent;

16. Submissions on March 1, 1988 to the House of Commons' Legislative Committee on Bill C-77 regarding proposed amendments to the bill, including the CCLA's concern that the power to prohibit and regulate public assemblies during a national emergency could effectively ban peaceful assemblies protesting the declaration of the emergency itself;

17. Submissions on January 16, 1990 to the House of Commons' Special Committee on the Review of the Canadian Security Intelligence Service Act and the CCLA's concerns that security intelligence surveillance can threaten political liberty and the right to dissent;

18. Submissions on January 23, 1990 to the Honourable Otto Jelinek, Minister of National Revenue, regarding the de-registration of charities and the CCLA's concerns that the denial of charitable status to non-profit educational publications on the basis of a common law distinction between "education" and "propaganda" can amount to a form of censorship;

19. Letter dated July 13, 1990 to the Scarborough Board of Education concerning the freedom of expression of an elementary school student who was suspended for wearing a pro-Palestinian T-shirt;

20. Letter dated July 13, 1990 to the Board of School Trustees, District 15, Moncton, New Brunswick concerning the balancing of the freedom of expression of an allegedly anti-semitic teacher and the freedom of association of his students;

21. Letter dated March 28, 1991 to Terry Grier, President of the Ryerson Polytechnic Institute, regarding its anti-harassment policy and its impact on free speech;

22. Letter dated November 12, 1991 to Dr. J. Diamond, Secretary of the Governing Council, University of Toronto, regarding the effect of proposed anti-harassment codes on intellectual freedom in a campus setting;

23. Letter dated May 22, 1992 to the Honourable Tony Silipo, then the Minister of Education for Ontario, about appropriately balancing the freedom of expression of an allegedly racist teacher and the freedom of association of his students;

24. Letter dated June 28, 1993 to the Honourable Marion Boyd, Attorney General for Ontario, regarding the picketing of abortion clinics;

25. Submissions in June 1993 to a parliamentary committee regarding the then-proposed child pornography bill;

26. Meeting on March 15, 1994 with the Honourable Dave Cooke, the Minister of Education for Ontario, regarding anti-harassment codes at colleges and universities;

27. Letter dated September 12, 1995 to the Board of Trustees of the Hamilton Board of Education concerning the freedom of expression of a group of students disciplined for distributing a petition;

28. Letter dated February 9, 1996 to the Honourable Charles Harnick, the Attorney General for Ontario, concerning charges laid against participants in a protest at the Ontario Legislature;

29. Letters dated August 29, 1996 to Dr. Susan Mann, President of York University, and to Mr. Don Brown, President and CEO of Imperial Tobacco Limited, regarding a request by an anti-smoking group for permission to protest on university property against the sponsorship of a sporting event by the tobacco company;

30. Letter dated September 12, 1997 to the Honourable Charles Harnick, the Attorney General for Ontario, concerning possible changes in the law regulating consumer boycotts;

31. Letter dated December 5, 1997 to the Honourable Andy Scott, Solicitor General of Canada, concerning alleged activities of the Prime Minister's Office and the RCMP which threatened the freedom of assembly and freedom of speech of protestors at the 1997 APEC Conference in Vancouver B.C.;

32. Brief dated February 12, 1998, submitted to the Guelph Police Services Board concerning inter alia police detention and strip- searching of those involved in political protests;

33. Brief dated February 26, 1998 submitted to the Metropolitan Toronto Police Services Board concerning inter alia police detention and strip-searching of students involved in political protests;

34. Submissions in August 1999 to the Honourable Anne McLellan, Minister of Justice, regarding amendments to the law of obscenity and the law of child pornography;

35. Submissions in December 1999 to the committee of the Ontario Legislature regarding Bill 8 (the Safe Streets Act);

36. Letter dated January 26, 2000 to the Honourable David Tsubouchi, Solicitor General of Ontario, regarding the increased political activity by the Toronto Police Association;

37. Letter dated May 26, 2000 to Ted Hughes, Commissioner of the APEC Inquiry, regarding ministerial responsibility for RCMP conduct regarding protests at the APEC summit;

38. Letters in February 2001 to the Hon. Lawrence MacAulay, Solicitor General of Canada, and to the Hon. Serge Menard, Minister of Public Security for Quebec, regarding the balance of protecting the viability of legitimate protest and security at the Quebec Summit of the Americas;

39. Letter dated May 4, 2001 to the Attorney-General of Quebec regarding the detention of a protester without bail at the Quebec Summit of the Americas;

40. Letters in July and August 2001 to the RCMP Public Complaints Commission, the Quebec Police Commission and the Quebec Police Ethics Commission, lodging formal complaints in relation to police treatment of protesters during the Quebec Summit of the Americas;

41. Submissions in October 2001 to the Standing Committee on Justice and Human Rights on Bill C-36, the then-proposed anti-terrorism bill, on its potential impact on civil liberties; inter alia, how the activities of legitimate dissenters could be swept up under the wide scope of the bill;

42. Submissions in October and December 2001 to the Special Senate Committee on Bill C-36 on its potential impact on civil liberties; inter alia, how the activities of legitimate dissenters could be swept up under the wide scope of the bill;

43. Submissions in February 2002 to the Standing Senate Committee on Foreign Affairs on Bill C-35, the bill to amend the Foreign Missions and International Organizations Act, on balancing the viability of legitimate protest with security concerns at intergovernmental meetings;

44. Letter dated June 14, 2002 to Calgary Mayor Dave Bronconiier and members of City Council, regarding the reported enforcement of a by-law to prevent public gatherings, demonstrations, and political rallies in Calgary's parks that would affect protesters of an upcoming G-8 conference in the city;

45. Letter dated August 21, 2002 to Wellington Township Mayor Pinkney and Councillors, regarding costs awarded by a court against a citizens' group that had challenged an action of the township;

46. Submissions in October 2003 to the Standing Committee on Justice and Human Rights on the child pornography provisions of Bill C-20 that would expand the criminal definition of child pornography;

47. Letter dated March 11, 2004 to the Vice Provost of the University of Alberta regarding the freedom of expression of anti-abortion activists on campus;

48. Letter dated September 7, 2004 to Patrick Carnegie, Facilities and Events Manager for Yonge-Dundas Square in Toronto, regarding the denial of a permit to an animal rights group;

49. Letters dated September 7, 2004 and November 30, 2004 to the Honourable Jim Watson, Ontario Minister of Consumer and Business Services, expressing the CCLA's concerns that the province was still requiring films to be submitted for prior approval, following an Ontario Superior Court ruling deeming this requirement unconstitutional;

50. Submissions in March 2005 to the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness on the child pornography provisions of Bill C-2, an amendment to the Criminal Code that, inter alia, would expand the definition of child pornography and significantly narrow the defences;

51. Submissions in April 2005 to the Ontario Standing Committee on Justice Policy on Bill 158, a bill that re-established a mandatory prior approval process for certain categories of films;

52. Submissions on May 16, 2005 to the Special Senate Committee on the Anti-Terrorism Act regarding, inter alia, the potential danger that protesters and demonstrators could be prosecuted under the current legislation's definition of terrorism;

53. Submissions in June 2005 to the City Council of Oshawa on a by-law which restricted placing certain signs on private and public property;

54. Submissions on September 20, 2005 to the House of Commons Sub-Committee on the Anti-Terrorism Act regarding, inter alia, the potential danger that protesters and demonstrators could be prosecuted under the current legislation's definition of terrorism;

55. Submissions on September 29, 2005 to the Ontario Standing Committee on Regulation and Private Bills on a public transparency bill that could improve the ability of citizens to participate in public discourse;

56. Letter dated March 1, 2006 to Toronto Mayor David Miller, concerning a draft by-law establishing that posters in the public space must be removed within a given period;

57. Submissions on April 24, 2007 to the International Commission of Jurists on Counter-Terrorism and Human Rights regarding, inter alia, the potential danger that protesters and demonstrators could be prosecuted under the current legislation's definition of terrorism;

58. Submissions on May 14, 2007 to the Ontario Standing Committee on General Government concerning Bill 212 and restrictions by school officials on the cyber-speech of students;

59. Submissions on August 24, 2007 to the Ipperwash Inquiry concerning the handling of Aboriginal protests by police;

60. Letter dated December 11, 2007 to the Chair of the Toronto Police Services Board regarding a freedom of information request by the Toronto Star;

61. Submissions on April 9, 2008 to the Senate Standing Committee on Banking, Trade and Commerce on a provision of Bill C-10 that could deny tax credits to films that may be designated as contrary to public policy;

62. Letter dated May 22, 2008 to The Honourable Steve Peters, Speaker of the Legislative Assembly of Ontario, regarding public recital of the Lord's Prayer in the Ontario Legislative Assembly;

63. A letter dated August 14, 2008 to the Ontario Attorney General regarding the Crown's request for a publication ban in a preliminary inquiry;

64. Submissions on January 15, 2009 to the Canadian Human Rights Commission regarding Professor Richard Moon's report on s. 13 of the Canadian Human Rights Act;

65. A letter dated January 28, 2009 to student unions across Canada regarding various actions taken against anti-abortion student groups on post-secondary school campuses;

66. A letter dated February 10, 2009 to the Council of the Municipality of Clarington regarding a resolution they passed in which they banned a constituent from addressing the Council until he issued a personal written apology;

67. A letter dated February 26, 2009 to the University of Ottawa regarding the Administration's decision to ban a student group's poster;

68. A letter dated February 27, 2009 to Carleton University regarding the Administration's decision to ban a student group's poster;

69. A letter dated May 6, 2009 to Citizenship and Immigration Minister Jason Kenney calling on the Federal government to adopt appropriate measures to ensure that immigration law and decisions recognize and respect Canadians' right to hear, in the wake of Minister Kenney's statements regarding UK MP George Galloway's effective exclusion from Canada;

70. Letter dated May 22, 2009 to Minister Blackett, outlining the association's concerns regarding Bill 44's proposed amendments to the Alberta Human Rights, Citizenship and Multiculturalism Act. The original Bill inserted into the Act a provision which would require a school board to notify a parent when courses of study included subject-matter that dealt explicitly with religion, sexuality or sexual orientation. Parents would then have been able to obtain an exemption for their child;

71. August 21, 2009, submission to the Canadian Parliamentary Committee for Combating Antisemitism to adopt recommendations that recognize the importance of combating discrimination while also respecting freedom of expression;

72. Letter dated August 26, 2009 to an Ontario secondary school principal urging him to rescind a ban of To Kill a Mockingbird from the grade 10 classrooms at his school;

73. An op-ed published in The Toronto Star on Saturday, August 29, 2009 by CCLA General Counsel Nathalie Des Rosiers, arguing that copyright protection was not designed to insulate corporations from public criticism;

74. Letter dated September 1, 2009 to Regina's City Council to ask that they repeal the city bylaw being used to prohibit panhandling as begging has been ruled to be a form of expression;

75. September 10, 2009 submissions to the Government of Canada Copyright Consultation urging the government to fully incorporate flexible fair dealing provisions, abolish or revisit Crown copyright, and proactively ensure that any legislative reforms fully respect the equality and privacy of all Canadians;

76. Letter dated December 4, 2009 urging the Waterloo Region District School Board to repeal their policy allowing for the distribution of Bibles to grade five public school students;

77. Letter dated February 23, 2010 to Ottawa City Council criticizing a proposed By-Law amendment that would, inter alia, prohibit indecent, insulting or abusive language as unconstitutional restrictions on freedom of speech and assembly;

78. Letter dated March 5, 2010 to York University questioning the cancellation of a controversial speaker due to the administration's decision to charge a student group for the extra security costs, and drawing the administration's attention to the freedom of expression implications of such a policy;

79. Letter dated March 8, 2010 to the Toronto District School Board asking them to rescind their blanket ban on all "Israeli Apartheid Week" events or activities;

80. An op-ed published in The Toronto Star on Monday, March 29, 2010 by CCLA General Counsel Nathalie Des Rosiers, regarding the cancellation of a controversial speaker at the University of Ottawa;

81. Letter dated April 13, 2010 to Rocky View County Council, criticizing a 'cease and desist' letter sent to two individuals who had parodied the County's trademark on their websites in an attempt to criticize the government's development practices;

82. Letter dated April 19, 2010 to Toronto City Council questioning the finding that the Toronto Pride Parade had contravened the City's anti-discrimintaion policy by allowing the participation of the group "Queers Against Israeli Apartheid";

83. Brief, dated May 5, 2010, to the assemblée nationale du Québec regarding Bill 94, which established guidelines around reasonable accommodation and the principle of showing one's face when accessing government services;

84. An op-ed published in the National Post on May 8, 2010, by CCLA General Counsel Nathalie Des Rosiers regarding the Supreme Court decision in R. v. National Post;

85. An op-ed published in the Toronto Star on May 13, 2010, by CCLA General Counsel Nathalie Des Rosiers and Project Director Abby Deshman regarding protection for protesters' rights at the upcoming G20 summit;

86. Submissions, dated May 5, 2010, to the assemblée nationale du Québec regarding Bill 94, which established guidelines around reasonable accommodation and the principle of showing one's face when accessing government services;

87. A Statement of the CCLA's concerns, dated May 21, 2010, regarding the security measures put in place for the June 2010 G20 summit in Toronto;

88. Letter dated June 1, 2010 to William Blair, Chief of the Toronto Police Service, regarding the proposed use of Long Range Acoustic Devices (LRADs or sound cannons) during the G8/G20 summits;

89. Letter dated July 23, 2010 to Justice of the Peace Mark Conacher of the Ontario Court of Justice regarding his order banning note-taking by the public during a G20 bail hearing;

90. Letter dated August 4, 2010 to the Hon. Annemarie Bonkalo, Chief Justice of the Ontario Court of Justice, regarding transparency and public access to G20 bail hearings;

91. Letter dated August 6, 2010 to Ontario's Advisory Panel on Anti-SLAPP legislation setting out the CCLA's submissions and recommendations with respect to the potential for anti-SLAPP legislation in Ontario;

92. Letters dated August 16 and 27 and September 8, 2010 to various municipalities (the City of Oshawa, the City of Toronto and the Town of Arnprior) regarding restrictions on electoral campaigning on municipal property;

93. Letter dated September 3, 2010, to the Toronto Public Library regarding the library's refusal to rent a room to a right-to-die organization;

94. Letter dated September 21, 2010 to Chris Bentley, the Attorney General of Ontario, urging the Crown to refrain from suggesting that G20 protestors charged with criminal offences be subject to bail conditions that preclude them from participating in public demonstrations;

95. Letters dated November 24 and December 2, 2010 to the Waterloo Region District School Board urging them, once again, to repeal their policy and cease the practice of allowing for the distribution of Bibles to grade five public school students;

96. Letter dated December 13, 2010 regarding the Municipality of Meaford's proposed lawsuit against an anonymous blogger who was critical of the Mayor and municipal staff members and expressing concern regarding its chilling effect on the expression of residents

97. Letter dated December 21, 2010 to the Honourable Leona Dombrowsky, Ontario's Minister of Education, regarding the practice of distributing Bibles to public school students;

98. Letter dated March 10, 2011 regarding the denial of an event permit to the organizers of the Toronto Freedom Festival, citing the City's responsibility to uphold and protect the exercise of democratic rights including freedom of expression;

99. Letter dated May 25, 2011 to the Township of Scugog regarding concerns that a Council Procedural By-Law and the Town's use of a trespass notice unduly infringe freedom of expression;

100. Letter dated June 2, 2011 to the City of Edmonton regarding the significant fee that organizers of the Edmonton Slut Walk would have to pay for road closures and police presence;

101. Letter dated July 22, 2011 to Greater St. Albert Catholic School Board Superintendent and Board Chair regarding the absence of a public secular school within certain towns in the Greater St. Albert area;

102. Letter dated September 29, 2011 to the National Capital Commission (NCC) encouraging the NCC to facilitate constitutionally-protected expressive activities on public property in the context of a request by Humane Society International for an event permit;

103. Letters dated November 11, 2011 to the City of Calgary, the City of Vancouver, the City of Regina, the City of London, the City of Toronto and the City of Vancouver, regarding various motions to put an end to the Occupy protests;

104. Letter dated November 14, 2011 to the Town of Orangeville regarding a sign by-law and concerns that it unreasonably limits freedom of expression;

105. Letter dated December 12, 2011 to Principal of McGill University regarding protests and presence of riot police on campus;

106. Letter dated February 1, 2012 to Chief of Police of Fredericton Police Force regarding criminal libel charges leveled against a blogger for statements made with respect to a Fredericton police officer;

107. Letter dated March 7, 2012 to the Canadian immigration agency in Mexico regarding the possible use of criminal libel provisions to exclude an applicant from permanent residency in Canada;

108. Letters dated April 3, 2012 to the City of Niagara and the Town of Fort Erie on their respective issuing of Trespass Notices that prevent residents from attending municipal council meetings without prior authorization;

109. Letter dated April 17, 2012 to Western University regarding its decision to ban two community members from campus following a peaceful, albeit "unauthorized," protest;

110. Letter dated April 18, 2012 to the Université du Québec en Outaouais, regarding charges brought against faculty and student participants in peaceful protests;

111. Written and oral submissions on May 14, 2012 to the Ontario Standing Committee on Social Policy regarding Bill 13, An Act to amend the Education Act, and CCLA's concern that it protect the fundamental freedoms of students, including freedom of expression in the context of school clubs;

112. Letter dated May 16, 2012 to the Mayor of Montréal, regarding the City of Montreal's proposed adoption of amendments to a bylaw that would make it illegal to wear a mask during a public demonstration, and that would require demonstrators to provide prior notification to police authorities of their meeting place and route;

113. Letters dated July 24, 2012 to the Cities of Oshawa and Windsor regarding the impact that trespass notices against residents excluding them from city property have on freedom of expression;

114. Submissions dated August 29, 2012 to Bernard Richard for his review of the Fredericton Police Force's behavior in respect of an arrest and investigation for criminal libel;

115. Letter to the City of Guelph dated December 19, 2012 regarding a proposed nuisance bylaw and its implications for freedom of expression;

116. Letter to administrators at McGill University dated January 8, 2013 regarding a draft Protocol Regarding Demonstrations, Protests and Occupations on McGill University Campuses and the extent to which the Protocol protects freedom of expression and peaceful assembly;

117. Letter to Director of Security Services at York University dated January 10, 2013 regarding the protection of the right to free expression and protest on campus;

118. Letter to the City of Guelph dated March 22, 2013, regarding a proposed nuisance bylaw and ongoing concerns about its impact on freedom of expression;

119. Letter to the Mayor of Montreal dated April 2, 2013, regarding concerns about a municipal bylaw placing restrictions on the rights of protesters;

120. Letter to the Chief of the Montreal Police dated April 4, 2013, regarding the use of a protest bylaw to shut down peaceful demonstrations before they are underway and engage in mass arrests, infringing on both freedom of expression and peaceful assembly;

121. Letter to Windsor City Council dated April 19, 2013, regarding proposed Notice of Trespass Policy and its potential impact on freedom of expression and civic participation in municipal politics;

122. Letter to Montreal City Councillor dated April 19, 2013, regarding a motion to repeal a protest bylaw;

123. Oral submissions to the Senate Standing Committee on Human Rights on June 25, 2013, regarding the proposed repeal of s. 13 of the Canadian Human Rights Act, the hate speech provision;

124. A letter to the General Counsel of a large corporation expressing concerns about a cease and desist letter sent to an individual advocating for a boycott;

125. A letter to legal counsel involved in a lawsuit with potentially wide-ranging impact for freedom of expression advising of CCLA's interest in the case and intention to intervene;

126. A letter to the Prime Minister, Minister of Foreign Affairs and Minister of State (Sport) regarding the Olympic Games in Sochi and the need to protect LGBTQ communities and allies in light of the laws passed by Russia that limit freedom of expression and undermine the right to equality;

127. Letter dated September 13, 2013 to the Honourable Pauline Marois, Premier of Québec, regarding a proposed Québec Charter of Values that would prohibit individuals employed in the public service from wearing conspicuous or overt religious symbols in the workplace;

128. A letter to the Chief Electoral Office of Nunavut regarding an overly broad interpretation of the Nunavut Elections Act's prohibitions on non-residents campaigning and the impact of this interpretation on freedom of expression; and

129. A letter to a representative of the CCSO Cybercrime Working Group outlining CCLA's comments on recommendations made in the group's Report on Cyberbullying and the Non-Consensual Distribution of Intimate Images.

130. Submissions dated December 20, 2013, on Bill 60: Charter affirming the values of State secularism and religious neutrality and of equality between women and men, and providing a framework for accommodation requests, presented tot eh Committee on Institutions' general consultation.

131. Brief to the Standing Committee on Justice and Human Rights regarding Bill C-13, An Act to Amend the Criminal Code, the Canada Evidence Act, the Competition Act and the Mutual Legal Assistance in Criminal Matters Act (Protecting Canadians from Online Crime Act), dated June 5, 2014;

132. A letter to the members of the Rocky View County Council concerning a proposed Code of Conduct and the requirements that it places on councilors to limit their freedom of expression;

133. Submissions dated March 23, 2015 to the Standing Committee on Public Safety and National Security and submissions dated April 20, 2015 to the Standing Senate Committee on National Security and Defence regarding Bill C-51, An Act to Enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to Amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts;

134. Submission dated July 2015 to the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the promotion and protection of human rights in the context of peaceful protests (related to Human Rights Council Resolution 25/38);

135. Submissions dated August 2015 to the Committee on Institutions on Bill 59, An Act to enact the Act to prevent and combat hate speech and speech inciting violence and to amend various legislative provisions to better protect individuals;

136. Submissions dated October 1, 2015 to Ontario's Standing Committee on Justice Policy regarding Bill 52 (Protection of Public Participation Act, 2015); and

137. Letter to the Honourable Judy Foote, Minister of Public Services and Procurement, dated June 9, 2016, expressing concerns over an interim prohibitory order that prohibits Canada Post from distributing mail from a particular individual.

Appendix B – CCLA Cases on Freedom of Religion

1. *Reference Re Bill 30, an Act to amend the Education Act (Ont.),* [1987] 1 S.C.R. 1148;
2. *Zylberberg v. Sudbury Board of Education (Director)* (1988), 65 0. R. (2d) 641 (C.A);
3. *Canadian Civil Liberties Assn. v. Ontario (Minister of Education)* (1990), 71 O.R. (2d) 341 (C.A.), reversing (1988),64 O.R. (2d) 577 (Div. Ct.).
4. *Adler v. Ontario*, [1996] 3 S.C.R. 609;
5. *Daly v. Ontario* (Attorney General) (1999), 44 O.R. (3d) 349 (C.A.);
6. *Trinity Western University v. British Columbia College of Teachers*, [2001] 1 S. C. R. 772;
7. *Ontario (Human Rights Commission) v. Brillinger*, [2002] O.J. No. 2375 (Div. Ct.);
8. *Chamberlain v. The Board of Trustees of School District # 36 (Surrey)*, [2002] 4 S.C.R. 710;
9. *La Congrégation des témoins de Jéhovah de St-Jérôme Lafontaine, et al. v. Municipalité du village de Lafontaine, et al.*, [2004] 2 S.C.R. 650;
10. *In the Matter of a Reference by the Government in Council Concerning the Proposal for an Act Respecting Certain Aspects of Legal Capacity for Marriage for Civil Purposes*, [2004] 3 S.C.R. 698;
11. *Multani v. Commission Scolaire Marguerite-Bourgeoys*, [2006] 1 S.C.R. 256;
12. *Owens v. Saskatchewan Human Rights Commission* (2006), 267 D.L.R. (4th) 733 (Sask.C.A.);
13. *Bruker v. Marcovitz*, 2007 SCC 54;
14. *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37;
15. *R. v. N.S. et al.*, 2010 ONCA 670;
16. *Reference re Marriage Commissioners Appointed Under the Marriage Act*, 1995 S.S. 1995, c. M-4.1, 2011 SKCA 3;
17. *S.L. v. Commission scolaire des Chênes*, 2012 SCC 7;
18. *R. v. N.S.*, 2012 SCC 72;
19. *Lund v. Boissoin*, 2012 ABCA 300;
20. *Saskatchewan (Human Rights Commission) v. Whatcott*, 2013 SCC 11;
21. *R.C. v. District School Board of Niagara*, 2013 HRTO 1382;
22. *Loyola High School v. Quebec (Attorney General),* 2015 SCC 12; and

23. *Mouvement laïque québécois v. Saguenay (City),* 2015 SCC 16.

Appendix C - CCLA Court Interventions/Cases

1. *R. v. Morgentaler,* [1976] 1 S.C.R. 616, where the general issue was whether the necessity defence was applicable to a charge of procuring an unlawful abortion under the *Criminal Code* (the CCLA intervened in the Supreme Court of Canada);

2. *Nova Scotia (Board of Censors) v. McNeil,* [1976] 2 S.C.R. 265, in which the issue was whether a taxpayer has standing to challenge legislation concerning censorship of films (the CCLA intervened in the Supreme Court of Canada);

3. *R. v. Miller,* [1977] 2 S.C.R. 680, in which one of the issues was whether the death penalty under the *Criminal Code* constituted cruel and unusual punishment under the *Canadian Bill of Rights* (the CCLA intervened in the Supreme Court of Canada);

4. *Nova Scotia (Board of Censors) v. McNeil,* [1978] 2 S.C.R. 662, in which the issues were whether statutory provisions and regulations authorizing the Board of Censors to regulate and control the film industry in the province were *intra vires* the provincial legislature and whether they violated fundamental freedoms, including freedom of speech (the CCLA intervened in the Supreme Court of Canada);

5. *Reference re Legislative Privilege* (1978), 18 O.R. (2d) 529 (C.A.), in which the issue was whether a member of the legislature has a privilege allowing him or her to refuse to disclose the source or content of confidential communications by informants when testifying at a criminal trial (the CCLA intervened in the Ontario Court of Appeal);

6. *R. v. Saxell* (1980), 33 O.R. (2d) 78 (C.A.), in which one of the issues was whether the provision in the *Criminal Code* for the detention of an accused acquitted by reason of insanity violated guarantees in the *Canadian Bill of Rights,* including the guarantee of due process and the protection against arbitrary detention and imprisonment (the CCLA intervened in the Ontario Court of Appeal);

7. *Nova Scotia (Attorney General) v. MacIntyre,* [1982] 1 S.C.R. 175, in which the issue was whether a journalist is entitled to inspect search warrants and the information used to obtain them (the CCLA intervened in the Supreme Court of Canada);

8. *Re Fraser and Treasury Board (Department of National Revenue)* (1982), 5 L.A.C. (3d) 193 (P.S.S.R.B.), in which the issue was whether termination of a civil servant for publicly criticizing government policy violated freedom of expression (the CCLA intervened before the Public Service Staff Relations Board);

9. *R. v. Dowson,* [1983] 2 S.C.R. 144, and *R. v. Buchbinder,* [1983] 2 S.C.R. 159, in which the issue was whether the Attorney General could order a stay of proceedings under s. 508 of the *Criminal Code* after a private information has been received but before the Justice of the Peace has completed an inquiry (the CCLA intervened in *R. v. Dowson* before the Ontario Court of Appeal and the Supreme Court of Canada, and in *R. v. Buchbinder* before the Supreme Court of Canada);

10. *R. v. Oakes* (1983), 40 O.R. (2d) 660, in which the issue was whether the reverse onus clause in s. 8 of the *Narcotic Control Act* violated an accused's right to be presumed innocent under the *Charter* (the CCLA intervened in the Court of Appeal);

11. *Re Ontario Film & Video Appreciation Society and Ontario Board of Censors* (1984), 45 O.R. (2d) 80 (C.A.), in which the issue was whether a provincial law permitting a board to censor films violated the Charter's guarantee of freedom of expression (the CCLA intervened in the Ontario Divisional Court and the Ontario Court of Appeal);

12. *R. v. Rao* (1984), 46 O.R. (2d) 80 (C.A.), in which the issue was whether a provision under the *Narcotic Control Act* permitting warrantless searches violated the *Charter*'s guarantee of protection against unreasonable search and seizure (the CCLA intervened in the Ontario Court of Appeal);

13. *Re Klein and Law Society of Upper Canada; Re Dvorak and Law Society of Upper Canada* (1985), 16 D.L.R. (4th) 489 (Div. Ct.), in which the issue was whether the Law Society's prohibitions respecting fees advertising and communications with the media violated the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Ontario Divisional Court);

14. *Canadian Newspapers Co. Ltd. v. Attorney-General of Canada* (1986), 55 0. R. (2d) 737 (H.C.), in which the issue was whether the provision in the *Criminal Code* limiting newspapers' rights to publish certain information respecting search warrants violated the *Charter's* guarantee of freedom of expression (the CCLA intervened in the Ontario High Court of Justice);

15. *R. v. J.M.G.* (1986), 56 O.R. (2d) 705 (C.A.), in which the issue was whether a school principal's seizure of drugs from a student's sock violated the *Charter's* protection from unreasonable search and seizure (the CCLA intervened in the Ontario Court of Appeal);

16. *Re Ontario Film & Video Appreciation Society and Ontario Film Review Board* (1986), 57 O.R. (2d) 339 (Div. Ct.), in which the issue was whether actions taken by a film censorship board violated the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Ontario Divisional Court);

17. *R. v. Swain* (1986), 53 O.R. (2d) 609 (C.A.), in which some of the issues were whether the provision in the *Criminal Code* for the detention of an accused acquitted by reason of insanity violated ss. 7, 9, 12 or 15(1) of the *Charter* (the CCLA intervened in the Court of Appeal);

18. *Reference Re Bill 30, an Act to amend the Education Act (Ont.),* [1987] 1 S.C.R. 1148, in which the issues were whether Bill 30, which provided for full funding for Roman Catholic separate high schools, violated the *Charter's* guarantees of freedom of conscience and religion and equality rights (the CCLA intervened in the Ontario Court of Appeal and the Supreme Court of Canada);

19. *Zylberberg v. Sudbury Board of Education (Director)* (1988), 65 O.R. (2d) 641 (C.A.), in which the issue was whether an Ontario regulation which provided for religious exercises in public schools violated the *Charter*'s guarantee of freedom of conscience and religion (the CCLA intervened in the Ontario Divisional Court and the Ontario Court of Appeal);

20. *Tremblay v. Daigle,* [1989] 2 S.C.R. 530, in which the issue was whether a man who impregnated a woman could obtain an injunction prohibiting the woman from having an abortion (the CCLA intervened in the Supreme Court of Canada);

21. *Canada (Human Rights Commission) v. Taylor,* [1990] 3 S.C.R. 892, in which one of the issues was whether a provision in the Canada *Human Rights Act* that prohibited telephone communication of hate messages offended the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Supreme Court of Canada);

22. *R. v. Keegstra,* [1990] 3 S.C.R. 697, in which the issue was whether the *Criminal Code* provision which made it an offence to willfully promote hatred against an identifiable group constitutes a violation of the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Supreme Court of Canada);

23. *Lavigne v. Ontario Public Service Employees Union,* [1991] 2 S.C.R. 211, in which the issues were whether the use for certain political purposes of union dues paid by nonmembers pursuant to an agency shop or Rand formula violated the *Charter* guarantees of freedom of expression and association (the CCLA intervened in the Supreme Court of Canada);

24. *R. v. Seaboyer,* [1991] 2 S.C.R. 577, in which one of the issues was whether the rape shield provisions of the *Criminal Code* violated the *Charter* guarantee of a fair trial (the CCLA intervened in the Ontario Court of Appeal and the Supreme Court of Canada of Canada);

25. *R. v. Butler,* [1992] 1 S.C.R. 452, in which the issue was whether the obscenity provisions in s. 163 of the *Criminal Code* violate the *Charter* guarantee of freedom of expression (the CCLA intervened in the Supreme Court of Canada);

26. *J.H. v. Hastings (County),* [1992] O.J. No. 1695 (Ont. Gen. Div.), in which the issue was whether disclosure to municipal councilors of a list of social assistance recipients violated the protection of privacy under the *Municipal Freedom of Information and Protection of Privacy Act* (the CCLA intervened in the Ontario Court – General Division);

27. *R. v. Zundel,* [1992] 2 S.C.R. 731, in which the issue was whether s. 177 of the *Criminal Code* prohibiting spreading false news violated the *Charter* guarantee of freedom of expression (the CCLA intervened in the Supreme Court of Canada);

28. *Ontario Human Rights Commission v. Four Star Variety* (October 22, 1993) (Ont. Bd. of Inquiry), in which the issues were whether convenience stores displaying and selling certain magazines discriminated against women on the basis of their sex contrary to the Ontario *Human Rights Code* and if the Board of Inquiry's dealing with the obscenity issue intruded on the *Charter* guarantee of freedom of expression (the CCLA intervened before the Board of Inquiry);

29. *Ramsden v. Peterborough (City),* [1993] 2 S.C.R. 1084, in which the issue was whether a municipal by-law banning posters on public property violated the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Ontario Court of Appeal and the Supreme Court of Canada);

30. *Hill v. Church of Scientology of Toronto,* [1995] 2 S.C.R. 1130, in which the issues were: (1) whether the common law of defamation should be developed in a manner consistent with freedom of expression; (2) whether the common law test for determining liability for defamation

disproportionately restricts freedom of expression; and (3) whether the current law respecting non-pecuniary and punitive damages disproportionately restricts freedom of expression and whether limits on jury discretion and damages should be imposed (the CCLA intervened in the Supreme Court of Canada);

31. *Ontario (Attorney General) v. Langer* (1995), 123 D.L.R. (4th) 289 (Ont. Gen. Div.), in which the issue was the constitutionality of ss. 163.1 and 164 of the *Criminal Code* relating to child pornography (the CCLA intervened in the Ontario General Division);

32. *Adler v. Ontario,* [1996] 3 S.C.R. 609, in which the issues were whether Ontario not funding of Jewish and certain Christian day schools violated the *Charter*'s guarantees of freedom of conscience and religion and of equality without discrimination based on religion (the CCLA intervened in the Ontario General Division, the Ontario Court of Appeal, and the Supreme Court of Canada);

33. *Al Yamani v. Canada (Solicitor General) (TD.),* [1996] 1 F.C. 174 (T.D.), in which some of the issues were whether the provision in the *Immigration Act* regarding the deportation of permanent residents on the basis of membership in a class of organizations violated principles of fundamental justice contrary to s. 7 of the *Charter* or the *Charter* guarantees of freedom of association and expression (the CCLA intervened in the Federal Court Trial Division);

34. *R. v. Gill* (1996), 29 O.R. (3d) 250 (Ont. Gen. Div.), in which the issue was whether s. 301 of the *Criminal Code*, which creates an offence of publishing a defamatory libel, constitutes a violation of the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Ontario Court – General Division);

35. *Ross v. New Brunswick School District No. 15,* [1996] 1 S.C.R. 825, in which some of the issues were whether a teacher, who had been subject to discipline for making discriminatory anti-Semitic statements while off duty, could defend his conduct, at least in part, on freedom of religion (the CCLA intervened in the Supreme Court of Canada);

36. *R. v. Stillman,* [1997] 1 S.C.R. 607, in which the issue was the explication of the circumstances, including police conduct, that would bring the administration of justice into disrepute within the meaning of s. 24(2) of the *Charter* if unconstitutionally obtained evidence were to be admitted into a proceeding (the CCLA intervened in the Supreme Court of Canada);

37. *Winnipeg Child and Family Services (Northwest Area) v. D.F.G,* [1997] 3 S.C.R. 925, in which the issue was whether the law should permit the state to interfere with the privacy, dignity, and liberty of a pregnant woman where her actions may expose the fetus to serious injury (the CCLA intervened in the Supreme Court of Canada);

38. *R. v. Lucas,* [1998] 1 S.C.R. 439, in which the issue was whether s. 300 of the *Criminal Code*, which creates the offence of publishing a defamatory libel, constitutes a violation of the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Supreme Court of Canada);

39. *Thomson Newspapers Co. (c.o.b. Globe and Mail) v. Canada (Attorney General),* [1998] 1 S.C.R. 877, in which the issue was whether s. 322.1 of the *Canada Elections Act,* which prohibits the publication of public opinion polls during the last 72 hours of a federal election campaign, constitutes a violation of the *Charter*'s guarantee of freedom of expression (the CCLA intervened in the Supreme Court of Canada);

40. *Daly v. Ontario (Attorney General)* (1999), 44 O.R. (3d) 349 (C.A.), in which the issue was the extent to which Ontario's constitutionally protected Catholic separate school boards must adhere to the restrictions on employment discrimination contained in the *Ontario Human Rights Code* (the CCLA intervened in the Ontario General Division and the Ontario Court of Appeal);

41. *R. v. Mills,* [1999] 3 S.C.R. 668, in which the central issue was the appropriate balance to be struck between the rights of the accused and the rights of complainants and witnesses with respect to the production of medical and therapeutic records (the CCLA intervened in the Supreme Court of Canada);

42. *Moumdjian v. Canada (Security Intelligence Review Committee),* [1999] 4 F.C. 624, in which one of the issues was the constitutionality of *Immigration Act* provisions which impacted on the freedom of association (the CCLA intervened in the Federal Court of Appeal);

43. *United Food and Commercial Workers, Local 1518 (U.F.C.W.) v. KMart Canada Ltd.*, [1999] 2 S.C.R. 1083, and *Allsco Building Products Ltd. v. United Food and Commercial Workers International Union, Local 1288 P*, [1999] 2 S.C.R. 1136, in which the issue was whether leafleting by striking employees at non-struck workplaces is constitutionally protected expression (the CCLA intervened in the Supreme Court of Canada);

44. *R. v. Budreo* (2000), 46 O.R. (3d) 481 (C.A.), in which the issue was whether the provision in s. 810.1 of the *Criminal Code,* which permits a court to impose recognizance on a person likely to commit sexual offences against a child, violates s. 7 of the *Charter* (the CCLA intervened in the Ontario Court of Appeal);

45. *Martin Entrop and Imperial Oil Ltd* (2000), 50 O.R. (3d) 18 (C.A.), in which one of the issues was the legality of an employer testing employees' urine for drug use (the CCLA intervened in the Ontario General Division and the Ontario Court of Appeal);

46. *Little Sisters Book and Art Emporium v. Canada (Attorney General),* [2000] 2 S.C.R. 1120, in which one of the issues was whether certain provisions of Canada's customs legislation which permit customs officers to seize and detain allegedly obscene material at the border unreasonably infringe on the right to freedom of expression (the CCLA intervened in the Supreme Court of Canada);

47. *Toronto Police Association v. Toronto Police Services Board and David J. Boothby* (Ont. Div. Ct. Court, File No. 58/2000), in which the issue was the propriety of police fundraising and political activities, and the validity of a by-law and order issued by the Toronto Police Services Board and the Chief of Police, respectively, regarding police conduct (the matter settled prior to the hearing);

48. *R. v. Latimer,* [2001] 1 S.C.R. 3, in which one of the issues was whether the *Criminal Code* provision for a mandatory minimum sentence of life imprisonment for second degree murder constitutes cruel and unusual punishment under s. 12 of the *Charter* (the CCLA intervened in the Supreme Court of Canada);

49. *R. v. Banks* (2001), 55 O.R. (3d) 374 (O.C.J.) and 2007 ONCA 19 (docket no. C43259) in which one of the issues was whether provisions of the Ontario *Safe Streets Act* prohibiting certain forms of soliciting violate s. 2(b) of the *Charter* (the CCLA intervened before the Ontario Court of Justice, the Ontario Superior Court of Justice and the Ontario Court of Appeal);

50. *R. v. Golden,* [2001] 3 S.C.R. 679, in which one of the issues was whether a strip search of the accused conducted as an incident to arrest violated s. 8 of the *Charter* (the CCLA intervened in the Supreme Court of Canada);

51. *R. v. Sharpe,* [2001] 1 S.C.R. 45, in which the issue was whether the *Criminal Code* prohibition of the possession of child pornography is an unreasonable infringement on the right to freedom of expression under the *Charter* (the CCLA intervened in the Supreme Court of Canada);

52. *Trinity Western University v. British Columbia College of Teachers,* [2001] 1 S. C. R. 772, in which the CCLA supported a private university's claim to be accredited for certification of its graduates as teachers eligible to teach in the public school system, despite the fact that the university's religiously-based code of conduct likely excluded gays and lesbians (the CCLA intervened in the Supreme Court of Canada);

53. *Ross v. New Brunswick Teachers' Association* (2001), 201 D.L.R. (4th) 75 (N.B.C.A.), in which one of the issues was the extent to which the values underlying the common law tort of defamation must give way to the *Charter* values underlying freedom of expression, especially where a claimant who asserts the former at the expense of the latter freely enters the public arena (the CCLA intervened in the New Brunswick Court of Appeal);

54. *Ontario (Human Rights Commission) v. Brillinger,* [2002] O.J. No. 2375 (Div. Ct.), in which the issue concerned the balance to be struck between freedom of religion and the right to equality (the CCLA intervened in the Ontario Superior Court of Justice);

55. *Chamberlain v. The Board of Trustees of School District #36 (Surrey),* [2002] 4 S.C.R. 710, which involved the balancing of freedom of religion and equality rights in the context of a public school board's approval of books for a school curriculum (the CCLA intervened in the Supreme Court of Canada);

56. *Falkiner v. Ontario (Ministry of Community and Social Services)* (2002), 59 O.R. (3d) 481 (C.A.), in which the issues were the extent to which regulations made under the *Family Benefits Act* and the General *Welfare Assistance Act* amending the definition of "spouse" in relation to benefit entitlement (1) constituted discrimination under s. 15(1) of the *Charter,* and (2) set the stage for unwarranted government intrusion into the personal and private circumstances of affected recipients (the CCLA intervened before SARB, the Ontario Divisional Court, the Ontario Superior Court of Justice, and the Ontario Court of Appeal);

57. *Retail, Wholesale and Department Store Union, Local 558 v. Pepsi-Cola Canada Beverages (West) Ltd.,* [2002] 1 S.C.R. 156, in which the issue concerned the extent to which the common law regarding secondary picketing should be modified in light of *Charter values* (the CCLA intervened in the Supreme Court of Canada);

58. *Lafferty v. Parizeau* (SCC File No. 30103), [2003] S.C.C.A. No. 555 (leave granted but settled before hearing), which examined the application of *Charter* freedom of expression values to defamation and the defense of fair comment (the CCLA intervened in the Supreme Court of Canada, but the matter settled prior to hearing);

59. *R. v. Malmo-Levine, R. v. Clay, R. v. Caine,* [2003] S.C.J. No. 79, in which one of the issues was whether the criminal prohibition against the possession of marijuana violates s. 7 of the *Charter* (the CCLA intervened in the Supreme Court of Canada);

60. *Odhavji Estate v. Woodhouse,* [2003] 3 S.C.R. 263, which examined the appropriate scope of both the tort of abuse of public office and the tort of negligent supervision of the police, and the appropriate legal principles to be applied when addressing the issues of costs orders against private individuals of modest means who are engaged in public interest litigation (the CCLA intervened in the Supreme Court of Canada);

61. *La Congrégation des témoins de Jéhovah de St-Jérôme Lafontaine, et al. v. Municipalité du village de Lafontaine, et al.,* [2004] 2 S.C.R. 650, which examined the constitutionality of a municipal zoning decision that limited the location of building places of religious worship (the CCLA intervened in the Supreme Court of Canada);

62. *R. v. Glad Day Bookshop Inc.,* [2004] O.J No. 1766 (Ont. Sup. Ct. Jus.), in which one of the issues was the constitutionality of the statutory regime requiring prior approval and allowing the prior restraint of films (the CCLA intervened in the Ontario Superior Court of Justice);

63. *In the matter of an application under § 83.28 of the Criminal Code*, [2004] 2 S.C.R. 248, which questioned *inter alia* the constitutionality of investigative hearings and the over breadth of certain provisions of the Anti-Terrorism Act (the CCLA intervened in the Supreme Court of Canada);

64. *In the Matter of a Reference by the Government in Council Concerning the Proposal for an Act Respecting Certain Aspects of Legal Capacity for Marriage for Civil Purposes*, [2004] 3 S.C.R. 698, which examined the equality and religious freedom aspects of proposed changes to the marriage legislation (the CCLA intervened in the Supreme Court of Canada);

65. *R v. Mann,* [2004] 3 S.C.R. 59, which examined whether the police have the authority at common law to detain and search a person in the absence of either a warrant or reasonable and probable grounds to believe an offence has been committed (the CCLA intervened in the Supreme Court of Canada);

66. *R v. Tessling,* [2004] 3 S.C.R. 432, which examined the constitutionality of the police conducting warrantless searches of private dwelling houses using infrared technology during the course of criminal investigations (the CCLA intervened in the Supreme Court of Canada);

67. *Genex Communications Inc. v. Attorney General of Canada*, [2005] F.C.J. No. 1440 (F.C.A.), which examined the application of the *Charter's* guarantee of freedom of expression to a decision by the CRTC to refuse to renew a radio station license (the CCLA intervened in the Federal Court of Appeal);

68. *R. v. Hamilton,* [2005] S.C.J. No. 48, which examined the scope of the offence of counseling the commission of a crime (the CCLA intervened in the Supreme Court of Canada);

69. *R. v. Déry*, [2006] 2 S.C.R. 669, which examined whether the *Criminal Code* contains the offence of "attempted conspiracy" (the CCLA intervened in the Supreme Court of Canada);

70. *Montague v. Page* (2006), 79 O.R. (3d) 515 (Ont. S.C.J.), which concerned the application of the Charter's guarantee of freedom of expression to the question of whether municipalities are allowed to file defamation suits against residents (CCLA intervened in the Ontario Superior Court of Justice);

71. *Multani v. Commission Scolaire Marguerite-Bourgeoys,* [2006] 1 S.C.R. 256, which concerned whether the *Charter's* guarantee of freedom of religion allows a student to wear a kirpan in school (the CCLA intervened in the Supreme Court of Canada);

72. *O'Neill v. Attorney General of Canada,* [2006] O.J. No. 4189 (Ont. S.C.J.), which concerned the interaction of national security and *Charter* rights (the CCLA intervened in the Ontario Superior Court of Justice);

73. *Owens v. Saskatchewan Human Rights Commission* (2006), 267 D.L.R. (4th) 733 (Sask.C.A.), which concerned the application of the *Charter's* guarantees of freedom of religion and expression to a provincial statute banning hateful speech (the CCLA intervened in the Saskatchewan Court of Appeal);

74. *Charkaoui et al. v. Canada (Citizenship and Immigration),* [2007] 1 S.C.R. 350, which examined, *inter alia,* the constitutionality of certain "security certificate" provisions of the *Immigration and Refugee Protection Act* (the CCLA intervened in the Supreme Court of Canada);

75. *R. v. Bryan,* [2007] 1 S.C.R. 527, which examined the constitutionality of provisions of the *Elections Act* which penalize dissemination of election results from eastern Canada before polls are closed in the West (the CCLA intervened in the Supreme Court of Canada);

76. *R. v. Clayton,* 2007 SCC 32, concerning the scope of the police power to establish a roadblock and to stop and search vehicles and passengers (the CCLA intervened in the Supreme Court of Canada);

77. *Hill v. Hamilton-Wentworth Regional Police Services Board,* 2007 SCC 41, concerning the issue of whether police officers can be held liable in tort for a negligently conducted investigation (the CCLA intervened in the Supreme Court of Canada);

78. *Bruker v. Marcovitz,* 2007 SCC 54, which examined the extent to which civil courts can enforce a civil obligation to perform a religious divorce (the CCLA intervened in the Supreme Court of Canada);

79. *Lund v. Boissoin AND The Concerned Christian Coalition Inc.* (2006), CarswellAlta 2060 (AHRCC), which examined the extent to which Alberta human rights law can limit a homophobic letter to the editor (the CCLA intervened before the Alberta Human Rights and Citizen Commission);

80. *Whatcott v. Assn. Of Licensed Practical Nurses (Saskatchewan)*, 2008 SKCA 6, concerning the freedom of expression of an off-duty nurse who picketed a Planned Parenthood facility - whether he should be subject to disciplinary action by the professional association of nurses for this activity (the CCLA intervened in the Saskatchewan Court of Appeal);

81. *R. v. Kang-Brown*, 2008 SCC 18, and *R. v. A.M.*, 2008 SCC 19, concerning the constitutionality of using dogs to conduct random warrantless inspections of high school students (the CCLA intervened in the Supreme Court of Canada);

82. *Michael Esty Ferguson v. Her Majesty the Queen*, 2008 SCC 6, which concerned the constitutional challenge of a law requiring mandatory minimum sentences (the CCLA intervened in the Supreme Court of Canada);

83. *Elmasry and Habib v. Roger's Publishing and MacQueen* (No. 4), 2008 BCHRT 378, concerning the extent to which a British Columbia human rights law can limit the freedom of expression of a news magazine that had published offensive material about Muslims (the CCLA intervened before the British Columbia Human Rights Tribunal);

84. *Amnesty International Canada v. Canada (Minister of National Defence)*, 2008 FCA 401, concerning the extraterritorial application of the *Charter*, and specifically its application to Canadian Forces in Afghanistan and the transfer of detainees under Canadian control to Afghan authorities (the CCLA intervened in the Federal Court of Appeal);

85. *WIC Radio Ltd., et al. v. Kari Simpson,* 2008 SCC 40, concerning the appropriate balance to be struck in the law of defamation when one person's expression of opinion may have harmed the reputation of another (the CCLA intervened in the Supreme Court of Canada);

86. *Toronto Police Services Board v. (Ontario) Information and Privacy Commissioner*, 2009 ONCA 20 regarding freedom of information and the extent to which the public's right to access electronic data requires that the institution render such data in retrievable form (the CCLA intervened in the Ontario Court of Appeal);

87. *R. v. Patrick*, 2009 SCC 17, concerning the constitutionality of police conducting warrantless searches of household garbage located on private property (the CCLA intervened in the Supreme Court of Canada);

88. *Robin Chatterjee v. Attorney General of Ontario*, 2009 SCC 19, concerning the constitutionality of the civil forfeiture powers contained in Ontario's *Civil Remedies Act, 2001* (the CCLA intervened in the Supreme Court of Canada);

89. *R. v. Suberu*, 2009 SCC 33, concerning the constitutional right to counsel in the context of investigative detentions (the CCLA intervened in the Supreme Court of Canada);

90. *R. v. Grant*, 2009 SCC 32, concerning the appropriate legal test for the exclusion of evidence under s. 24(2) of the *Charter* (the CCLA intervened in the Supreme Court of Canada);

91. *R. v. Harrison*, 2009 SCC 34, concerning the appropriate application of s. 24(2) of the *Charter* in cases where police have engaged in "blatant" and "flagrant" *Charter* violations (the CCLA intervened in the Supreme Court of Canada);

92. *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37, concerning whether a provincial law requiring that all driver's licenses include a photograph of the license holder violates the freedom of religion of persons seeking an exemption from being photographed for religious reasons (the CCLA intervened in the Supreme Court of Canada);

93. *R. v. Breeden*, 2009 BCCA 463, concerning whether the constitutional right to freedom of expression applies in certain public and publicly accessible spaces (the CCLA intervened before the British Columbia Court of Appeal);

94. *R. v. Chehil* [2009] N.S.J. No. 515, concerning the permissibility of warrantless searches of airline passenger information by police (the CCLA intervened at the Nova Scotia Court of Appeal);

95. *Matthew Miazga v. The Estate of Dennis Kvello, et al.*, 2009 SCC 51, concerning the appropriate legal test for the tort of malicious prosecution (the CCLA intervened at the Supreme Court of Canada);

96. *Johanne Desbiens, et al. v. Wal-Mart Canada Corporation,* 2009 SCC 55, and *Gaétan Plourde v. Wal-Mart Canada Corporation,* 2009 SCC 54, concerning the interpretation of the Quebec *Labour Code* and the impact of the freedom of association guarantees contained in the *Canadian Charter* and the Quebec *Charter* (the CCLA intervened in the Supreme Court of Canada);

97. *Stephen Boissoin and the Concerned Christian Coalition Inc. v. Darren Lund*, 2009 ABQB 592, which will examine the extent to which Alberta human rights law can limit a homophobic letter to the editor (the CCLA intervened before the Queen's Bench of Alberta);

98. *Quan v. Cusson*, 2009 SCC 62, raising the novel question of a public interest responsible journalism defence, as well as the traditional defence of qualified privilege, in the setting of defamation law and its relationship to freedom of the press (the CCLA intervened in the Supreme Court of Canada);

99. *Peter Grant v. Torstar Corp.*, 2009 SCC 61concerning the creation and operation of a public interest responsible journalism defence (the CCLA intervened in the Supreme Court of Canada);

100. *Whitcombe and Wilson v. Manderson*, December 18 2009, Ontario Superior Court of Justice File No. 31/09, concerning a Rule 21 motion to dismiss a defamation lawsuit being funded by a municipality (the CCLA intervened in the Ontario Superior Court of Justice);

101. *Karas v. Canada (Minister of Justice)*, (SCC File No. 32500) concerning the appropriateness of extraditing a fugitive to face the possibility of a death penalty without assurances that the death penalty will not be applied (the CCLA was granted leave to intervene at the Supreme Court of Canada but the case was dismissed as moot prior to the hearing);

102. *Prime Minister of Canada, et al. v. Omar Ahmed Khadr*, 2010 SCC 3, concerning *Charter* obligations to Canadian citizens detained abroad and the appropriateness of *Charter* remedies in respect to matters affecting the conduct of foreign relations (the CCLA intervened in the Supreme Court of Canada);

103. *R. v. Nasogaluak*, 2010 SCC 6, concerning the availability of sentence reductions as a remedy for violations of constitutional rights (the CCLA intervened in the Supreme Court of Canada);

104. *Whatcott v. Saskatchewan (Human Rights Tribunal)*, 2010 SKCA 26, concerning the extent to which a Saskatchewan human rights law can limit the expression of a man distributing anti-homosexual flyers (the CCLA intervened in the Saskatchewan Court of Appeal);

105. *Leblanc et al. c. Rawdon (Municipalite de) (Quebec Court of Appeal File No. 500-09-019915-099) concerning the ability of a municipality to sue for defamation, the proper test for an interlocutory injunction in a defamation case, and the impact of "anti-SLAPP" legislation* (the CCLA intervened at the Quebec Court of Appeal);

106. *Warman v. Fournier et al.*, 2010 ONSC 2126, concerning the appropriate legal test when a litigant in a defamation action is attempting to identity previously-anonymous internet commentators (the CCLA intervened at the Ontario Superior Court of Justice);

107. *R. v. National Post,* 2010 SCC 16, concerning the relationship between journalist-source privilege, freedom of the press under s. 2b, and search warrant and assistance orders targeting the media (the CCLA intervened in the Supreme Court of Canada);

108. *Toronto Star Newspapers Ltd. v. Canada,* 2010 SCC 21, concerning the constitutionality of mandatory publication bans regarding bail hearing proceedings when requested by the accused (the CCLA intervened in the Supreme Court of Canada);

109. *Smith v. Mahoney* (U.S. Circuit Court of Appeals for the Ninth Circuit, Court File No. 94-99003) concerning the constitutionality of carrying out a death sentence on an inmate who has spent 27 years living under strict conditions of confinement on death row (the CCLA intervened in the U.S. Circuit Court of Appeals for the Ninth Circuit);

110. *R. v. Cornell,* 2010 SCC 31, concerning whether the manner in which police conduct a search, in particular an unannounced 'hard entry', constitutes a violation of s. 8 (the CCLA intervened in the Supreme Court of Canada);

111. *City of Vancouver, et al v. Alan Cameron Ward, et al.,* 2010 SCC 27, concerning whether an award of damages for the breach of a *Charter* right can made in the absence of bad faith, an abuse of power or tortious conduct (the CCLA intervened in the Supreme Court of Canada);

112. *R. v. Sinclair,* 2010 SCC 35, *R. v. McCrimmon,* 2010 SCC 36, and *R. v. Willier,* 2010 SCC 37, concerning the scope of the constitutional right to counsel in the context of a custodial interrogation (the CCLA intervened in the Supreme Court of Canada);

113. *R. v. N.S. et al.*, 2010 ONCA 670, concerning the balancing of freedom of religion and conscience and fair trial rights, where a sexual assault complainant is a religious Muslim woman and the accused has requested that she be required to remove the veil before testifying (the CCLA intervened at the Ontario Court of Appeal);

114. *The Toronto Coalition to Stop the War et al. v. The Minister of Public Safety and Emergency Preparedness and the Minister of Citizenship and Immigration Canada, 2010 FC 957, concerning the freedom of association and freedom of expression implications of a* preliminary assessment by the government that a British Member of Parliament who was invited to speak in Canada was inadmissible because the government claimed he had engaged in terrorism and was a member of a terrorist organization (the CCLA intervened in the Federal Court);

115. *Globe and Mail, a division of CTVglobemedia Publishing Inc. v. Attorney General of Canada, et al*, 2010 SCC 41, concerning the disclosure of confidential journalistic sources in the civil litigation context, and the constitutionality of a publication ban (the CCLA intervened in the Supreme Court of Canada);

116. *R. v. Gomboc,* 2010 SCC 55, concerning the constitutionality of police conducting warrantless searches of private dwelling houses using real-time electricity meters (the CCLA intervened in the Supreme Court of Canada);

117. *Tiberiu Gavrila v. Minister of Justice,* 2010 SCC 57, concerning the interaction between the Immigration and Refugee Protection Act and the Extradition Act and whether a refugee can be surrendered for extradition to a home country (the CCLA intervened in the Supreme Court of Canada);

118. *Reference re Marriage Commissioners Appointed Under the Marriage Act, 1995 S.S. 1995, c. M-4.1*, 2011 SKCA 3, concerning the constitutionality of proposed amendments to the *Marriage Act* that would allow marriage commissioners to refuse to perform civil marriages where doing so would conflict with commissioners' religious beliefs (the CCLA intervened at the Court of Appeal for Saskatchewan);

119. *Canadian Broadcasting Corporation et al. v. The Attorney General of Quebec et al.*, 2011 SCC 2, and *Canadian Broadcasting Corporation v. Her Majesty the Queen and Stéphan Dufour*, 2011 SCC 3 concerning the constitutional protection of freedom of the press in courthouses and the constitutionality of certain rules and directives restricting the activities of the press and the broadcasting of court proceedings (the CCLA intervened in the Supreme Court of Canada);

120. *R. v. Caron,* 2011 SCC 5, concerning the availability of advance cost orders in criminal and quasi-criminal litigation that raises broad reaching public interest issues (the CCLA intervened in the Supreme Court of Canada);

121. *R. v. Ahmad,* 2011 SCC 6, concerning the constitutionality of ss. 38 to 38.16 of the Canada Evidence Act, R.S.C. 1985 (the CCLA intervened in the Supreme Court of Canada);

122. *Farès Bou Malhab v. Diffusion Métromédia CMR inc., et al.*, 2011 SCC 9, concerning statements made by a radio host, and examining the scope and nature of defamation under Quebec civil law in the context of the freedom of expression guarantees found in the Quebec and Canadian Charters (the CCLA intervened in the Supreme Court of Canada);

123. *Ontario (Attorney General) v. Fraser,* 2011 SCC 20, concerning the exclusion of agricultural workers from Ontario's *Labour Relations Act* and whether the labour scheme put in place for these workers violated freedom of association under the *Canadian Charter* (the CCLA intervened in the Supreme Court of Canada);

124. *R. v. K.M.* 2011 ONCA 252, concerning the constitutionality of taking DNA samples from young offenders on a mandatory or reverse onus basis (the CCLA intervened in the Ontario Court of Appeal);

125. *Issassi v. Rosenzweig*, 2011 ONCA 302, concerning a 13 year old girl from Mexico who had been granted refugee status in Canada because of allegations that her mother had sexually abused her, and the subsequent return of that youth to her mother in Mexico, by a judge who did not conduct a risk assessment (the CCLA intervened at the Ontario Court of Appeal);

126. *Attorney General of Canada et al. v. Mavi et al.*, 2011 SCC 30, considering whether there is a need for procedural fairness in the federal immigration sponsorship regime (the CCLA intervened in the Supreme Court of Canada);

127. *Canada (Information Commissioner) v. Canada (Minister of National Defence),* 2011 SCC 25, cases concerning whether Minister's offices, including the Prime Minister's Office, are considered "government institutions" for the purposes of the federal *Access to Information Act* (the CCLA intervened in the Supreme Court of Canada);

128. *Toussaint v. Attorney General of Canada,* 2011 FCA 213, concerning whether a person living in Canada with precarious immigration status has the right to life-saving healthcare (the CCLA intervened in the Federal Court of Appeal);

129. *Phyllis Morris v. Richard Johnson, et al.*, 2011 ONSC 3996, concerning a motion for production and disclosure brought by a public official and plaintiff in a defamation action in order to get identifying information about anonymous bloggers (the CCLA intervened on the motion at the Ontario Superior Court of Justice);

130. *Canada (Attorney General) v. PHS Community Services Society*, 2011 SCC 44, concerning a safe (drug) injection site, and the constitutionality of certain criminal provisions in relation to users and staff of the site (the CCLA intervened in the Supreme Court of Canada);

131. *Crookes v. Newton,* 2011 SCC 47, concerning whether a hyperlink constitutes "publication" for the purposes of the law of defamation (the CCLA intervened in the Supreme Court of Canada);

132. *R. v. Katigbak*, 2011 SCC 48, considering the scope of the statutory defences to possession of child pornography (the CCLA intervened in the Supreme Court of Canada);

133. *R. v. Barros*, 2011 SCC 51, considering the scope of the informer privilege and whether it extends to prohibit independent investigation by the defence which may unearth the identity of a police informer (the CCLA intervened in the Supreme Court of Canada);

134. *Batty v. City of Toronto*, 2011 ONSC 6862, concerning the constitutionality of municipal bylaws prohibiting the erection of structures and overnight presence in public parks as applied to a protest (the CCLA intervened at the Ontario Superior Court of Justice);

135. *S.L. v. Commission scolaire des Chênes*, 2012 SCC 7, concerning parents seeking to have their children exempt from participating in Quebec's Ethics and Religious Culture curriculum on the basis of their freedom of religion concerns (the CCLA intervened before the Supreme Court of Canada);

136. *Doré v. Barreau du Québec*, 2012 SCC 12, concerning the jurisdiction of a provincial law society to discipline members for comments critical of the judiciary (the CCLA intervened before the Supreme Court of Canada);

137. *R. v. Ipeelee*, 2012 SCC 13, concerning the application of s. 718.2(e) of the *Criminal Code* and *Gladue* principles when sentencing an Aboriginal offender of a breach of long-term supervision orders (the CCLA intervened before the Supreme Court of Canada);

138. *Canada (Attorney General) v. Bedford*, 2012 ONCA 186, concerning the constitutionality of certain prostitution-related offences (the CCLA intervened at the Ontario Court of Appeal);

139. *R. v. Tse*, 2012 SCC 16, concerning the constitutionality of the Criminal Code's "warrantless wiretap" provisions (the CCLA intervened before the Supreme Court of Canada);

140. *Éditions Écosociété Inc. v. Banro Corp.*, 2012 SCC 18, concerning the appropriate test for jurisdiction and *forum non conveniens* in a multi-jurisdictional defamation lawsuit and the implications of these jurisdictional issues on freedom of expression (the CCLA intervened before the Supreme Court of Canada);

141. *Peel (Police) v. Ontario (Special Investigations Unit)*, 2012 ONCA 292, concerning the jurisdiction of Ontario's Special Investigations Unit to investigate potentially criminal conduct

committed by a police officer who has retired since the time of the incident (the CCLA intervened before the Ontario Superior Court of Justice and the Ontario Court of Appeal);

142. *Pridgen v. University of Calgary*, 2012 ABCA 139, which considers whether a university can discipline students for online speech and whether the *Canadian Charter of Rights and Freedoms* applies to disciplinary proceedings at a university (the CCLA intervened before the Alberta Court of Appeal);

143. *J.N. v. Durham Regional Police Service*, 2012 ONCA 428, concerning the retention of non-conviction disposition records by police services (the CCLA intervened in the Ontario Court of Appeal; CCLA also intervened before the Ontario Superior Court of Justice, *J.N. v. Durham Regional Police Service*, 2011 ONSC 2892);

144. *Opitz v. Wrzesnewskyj*, 2012 SCC 55, concerning the proper interpretation of the *Canada Elections Act* in the context of elections contested based on "irregularities," and in light of s. 3 of the Charter (CCLA intervened before the Supreme Court of Canada);

145. *Canada (Human Rights Commission) v. Warman*, 2012 FC 1162, concerning the constitutionality of the hate speech prohibitions in the *Canadian Human Rights Act* (the CCLA intervened in the Federal Court of Canada);

146. *R. v. Cuttell*, 2012 ONCA 661 and *R. v. Ward*, 2012 ONCA 660, concerning the permissibility of warrantless searches of internet users' identifying customer information (the CCLA intervened at the Ontario Court of Appeal);

147. *Canada (Attorney General) v. Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45, concerning the issue of the appropriate test for granting standing in a public interest case (CCLA intervened before the Supreme Court of Canada);

148. *R. v. Cole*, 2012 SCC 53, examining an employee's reasonable expectation of privacy in employer-issued computers and the application of s. 8 to police investigations at an individual's workplace (CCLA intervened before the Supreme Court of Canada);

149. *R. v. Prokofiew*, 2012 SCC 49, concerning the inferences that could be made from accused person's decision not to testify (CCLA intervened before the Supreme Court of Canada);

150. *A.B. v. Bragg Communications Inc.*, 2012 SCC 46, concerning the proper balance between the transparency of court proceedings and the privacy of complainants (CCLA intervened before the Supreme Court of Canada);

151. *Lund v. Boissoin,* 2012 ABCA 300, which considers the extent to which Alberta human rights law can limit a homophobic letter to the editor (the CCLA intervened before the Alberta Court of Appeal);

152. *R. v. Khawaja*, 2012 SCC 69 and *Sriskandarajah v. United States of America*, 2012 SCC 70 which together considered whether the definition of "terrorist activity" introduced by the Anti-Terrorism Act 2001, amending the Criminal Code, infringe the Charter (CCLA intervened before the Supreme Court of Canada);

153. *R. v. NS*, 2012 SCC 72, concerning the balancing of freedom of religion and conscience and fair trial rights, where a sexual assault complainant is a religious Muslim woman and the accused has requested that she be required to remove the veil before testifying (the CCLA intervened before the Supreme Court of Canada);

154. *R. v. Davey*, 2012 SCC 75, *R. v. Emms*, 2012 SCC 74 and *R. v. Yumnu*, 2012 SCC 73, concerning the Crown's vetting of prospective jurors prior to jury selection and the failure to provide disclose information to defence counsel (CCLA intervened before the Supreme Court of Canada);

155. *R. v. Manning,* 2013 SCC 1, concerning the proper interpretation of a criminal forfeiture provision, and whether courts may consider the impact of such forfeiture on offenders, their dependents, and affected others;

156. *Saskatchewan Human Rights Commission v. William Whatcott*, 2013 SCC 11, concerning the constitutionality and interpretation of the hate speech provisions of the Saskatchewan Human Rights Code and the extent to which that law can limit the expression of a man distributing anti-homosexual flyers;

157. *R. v. Mernagh,* 2013 ONCA 67, concerning the constitutionality of medical marijuana regulations;

158. *Tigchelaar Berry Farms v. Espinoza,* 2013 ONSC 1506, concerning temporary migrant workers who, following their termination, were immediately removed from Canada by their employers pursuant to a government-mandated employment contract;

159. *R. v. TELUS Communications Co.,* 2013 SCC 16, concerning the interpretation of the interception provisions of the *Criminal Code* and whether the authorizations in a General Warrant and Assistance Order are sufficient to require a cell phone company to forward copies of all incoming and outgoing text messages to the police;

160. *R. v. Pham*, 2013 SCC 15, concerning whether the demands of proportionality in sentencing require that the individual accused's circumstances be taken into account to include a collateral consequence, such as deportation;

161. *Canadian Human Rights Commission v. Canada (Attorney General)*, 2013 FCA 75, in which the court considered whether an allegation that the Government of Canada has engaged in prohibited discrimination by under-funding child welfare services for on-reserve First Nations children, in order to succeed, requires a comparison to a similarly situated group;

162. *Penner v. Niagara (Regional Police Service Board),* 2013 SCC 19, concerning the use of issue estoppel in the context of civil claims against the police;

163. *R. v. Saskatchewan Federation of Labour,* 2013 SKCA 43, concerning essential services legislation and the freedom to strike;

164. *R. v. Welsh*, 2013 ONCA 190, concerning the constitutionality of an undercover police officer posing as a religious or spiritual figure in order to elicit information from a suspect;

165. *Communications, Energy and Paperworkers Union of Canada, Local 30 v. Irving Pulp & Paper, Ltd.*, 2013 SCC 34, concerning employee privacy and the reasonableness of randomized alcohol testing in the workplace;

166. *RC v. District School Board of Niagara*, 2013 HRTO 1382, concerning the policy and practice of distribution of non-instructional religious material within the school board system and whether it is discriminatory on the basis of creed;

167. *Divito v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 47, concerning the government's refusal to permit Canadians detained abroad to serve the remainder of their sentence in Canada and the application of s. 6 of the Charter (the CCLA also intervened at the Federal Court of Appeal, 2011 FCA 39);

168. *R. v. Chehil*, 2013 SCC 49, and *R. v. Mackenzie*, 2013 SCC 50, concerning the "reasonable suspicion" standard and the right to be free from unreasonable search and seizure;

169. *Ezokola v. Minister of Immigration and Citizenship*, 2013 SCC 40, concerning application of the exclusion clause 1(F)(a) of the 1951 UN Refugee Convention, as incorporated in the IRPA, and the proper test for complicity in war crimes and crimes against humanity. The case considers an individual who has been denied refugee status because he was employed by the government of the Democratic Republic of Congo at a time that international crimes were committed by the State;

170. *Reva Landau v. Ontario (Attorney General)*, 2013 ONSC 6152, concerning the constitutionality of the current funding of Ontario's Catholic schools;

171. *R. v. Vu*, 2013 SCC 60, concerning the scope of police authority to search computers and other personal electronic devices found within a place for which a warrant to search has been issued;

172. *Alberta (Information and Privacy Commissioner) v. United Food and Commercial Workers, Local 401*, 2013 SCC 62, concerning the constitutionality of Alberta's *Personal Information Protection Act* in light of its impact on a union's freedom of expression in respect of activities on a picket line;

173. *Faysal v. General Dynamics Land Systems Canada* (Ontario Human Rights Tribunal File No. 2009-03006-I), concerning the application by a Canadian employer of the US *International Traffic in Arms Regulations,* and whether such application constitutes discrimination, contrary to the Ontario *Human Rights Code*, the *Charter of Rights and Freedoms,* and Canadian legal obligations pursuant to international human rights law (matter settled before a hearing);

174. *Wood v. Schaeffer*, 2013 SCC 71, concerning the scope of public interest standing and the interpretation of certain Regulations governing investigations conducted by Ontario's Special Investigations Unit (the CCLA also intervened at the Ontario Court of Appeal, 2011 ONCA 716);

175. *Bernard v. Canada (Attorney General)*, 2014 SCC 13, concerning an employer sharing the contact information of a Rand employee with a union and whether this violates rights to privacy and the freedom not to associate;

176. *John Doe v. Ontario (Finance),* 2014 SCC 36, concerning an exception in Ontario's *Freedom of Information and Protection of Privacy Act* for advice and recommendations to a Minister;

177. *Mission Institution v. Khela*, 2014 SCC 24, concerning the scope of habeas corpus, the disclosure obligations on a correctional institution when they conduct an involuntary transfer, and the remedies that are available pursuant to a habeas application;

178. *R. v. Summers*, 2014 SCC 26, concerning the presumption of innocence and the interpretation of "circumstance[s]" that may justify granting enhanced credit for pre-trial custody under s. 719(3.1) of the *Criminal Code*;

179. *Canada (Citizenship and Immigration) v. Harkat*, 2014 SCC 37, concerning the constitutionality of Canada's "security certificate" regime, particularly the restrictions on communications between a Named Person and the Special Advocate;

180. *France v. Diab,* 2014 ONCA 374, regarding whether an extradition judge must engage in a limited weighing of evidence to assess the sufficiency of evidence for committal to extradition and whether a failure to do so would violate s. 7 of the *Charter*;

181. *R. v. Spencer*, 2014 SCC 43, concerning the permissibility of warrantless searches of internet users' identifying customer information;

182. *R. v. Taylor*, 2014 SCC 50, concerning the right to counsel and whether intentional police reliance on medical procedures to gather evidence without implementing the right to counsel violates s. 8 of the *Charter*;

183. *R. v. Hart*, 2014 SCC 52, concerning the constitutionality and admissibility of a confession obtained through a "Mr. Big" police operation;

184. *Febles v. Canada (Citizenship and Immigration)*, 2014 SCC 68, concerning whether a court must consider an individual's rehabilitation when seeking to exclude a refugee from Canada for "serious prior criminality";

185. *Kazemi Estate v. Islamic Republic of Iran*, 2014 SCC 62, concerning the application of the *Charter* to the *State Immunity Act* and whether it denies state immunity for acts committed by foreign governments when such acts result in violations of international law prohibitions against torture (the CCLA also intervened at the Quebec Court of Appeal, 2012 QCCA 1449);

186. *Wakeling v. United States of America*, 2014 SCC 72, regarding the constitutionality of sections of the *Criminal Code* and the *Privacy Act* that allow for the substance of wiretaps to be disclosed to foreign law enforcement actors;

187. *R. v. Fearon*, 2014 SCC 77, concerning the scope of the police power to search incident to arrest and whether it extends to a warrantless search of personal electronic devices (the CCLA also intervened at the Ontario Court of Appeal, 2013 ONCA 106);

188. *PS v. Ontario*, 2014 ONCA 900, concerning detention under mental health law and the scope of *Charter* protection afforded to a person with a hearing impairment and linguistic needs, in a situation of compound rights violations;

189. *Mounted Police Association of Ontario v. Canada (Attorney General)*, 2015 SCC 1, concerning the constitutionality of the labour relations regime for members of the Royal Canadian Mounted Police;

190. *Nadeau-Dubois c. Morasse*, 2015 QCCA 78, concerning an appeal of a contempt conviction in respect of an individual who made public statements about the legitimacy of certain protest activities;

191. *Groia v. Law Society of Upper Canada*, 2015 ONSC 686, concerning a finding of professional misconduct made against a lawyer on the basis of incivility and the question of when such a finding impacts freedom of expression (the CCLA also intervened before the Law Society Appeal Panel, 2013 ONSLAP 41);

192. *Carter v. Canada (Attorney General)*, 2015 SCC 5, concerning the constitutionality of the *Criminal Code* prohibition on assisted suicide in light of the rights protected under ss. 7 and 15 of the *Charter*;

193. *Canada (Attorney General) v. Federation of Law Societies of Canada*, 2015 SCC 7, concerning the impact of provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, and associated regulations, on solicitor-client privilege and whether these provisions unjustifiably violate s. 7 of the *Charter*;

194. *Baglow v. Smith*, 2015 ONSC 1175, concerning the fair comment defence and the approach to defamation cases where the allegedly defamatory publication takes place within the "blogosphere";

195. *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12, concerning whether a private religious high school should be exempted from the requirement to teach Quebec's Ethics and Religious Culture curriculum and whether the failure to grant an exemption violates the institution's freedom of religion;

196. *Figueiras v. Toronto (Police Services Board)*, 2015 ONCA 208, regarding whether a roving police "stop and search" checkpoint targeting apparent protesters during the G20 Summit violated ss. 2 and 7 of the *Charter*;

197. *R. v. Nur*, 2015 SCC 15, concerning the constitutionality of various provisions of the *Criminal Code* which impose mandatory minimum sentences for the possession of a prohibited firearm (the CCLA also intervened at the Ontario Court of Appeal, 2013 ONCA 677, and at the Ontario Superior Court of Justice, 2011 ONSC 4874);

198. *Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, concerning whether the rights to equality or to freedom of religion as protected under the Quebec *Charter of human rights and freedoms* are violated when a prayer is recited at the outset of a municipal council meeting;

199. *Henry v. British Columbia (Attorney General)*, 2015 SCC 24, regarding the availability of *Charter* remedies for non-disclosure of evidence at trial and whether claimants should be required to prove prosecutorial malice in the *Charter* claim;

200. *Bowden Institution v. Khadr*, 2015 SCC 26, regarding the proper interpretation of the *International Transfer of Offenders Act* as applied to the sentence received by a Canadian citizen sentenced in the United States and whether the sentence should be served in a provincial correctional facility;

201. *R. v. St-Cloud*, 2015 SCC 27, regarding the interpretation of the power to deny bail because detention is necessary to maintain confidence in the administration of justice;

202. *R. v. Barabash*, 2015 SCC 29, considering the scope of the private use exception to making and possessing child pornography;

203. *R. v. Smith*, 2015 SCC 34, concerning the constitutionality of the *Marijuana Medical Access Regulations* and whether the limitation in the *Regulations* restricting legal possession to only dried marijuana unreasonably infringes s. 7 *Charter* rights;

204. *Equustek Solutions Inc. v. Google Inc.*, 2015 BCCA 265, concerning the validity of an order of the BC Supreme Court that requires a global internet search service to delete certain websites from its search results worldwide;

205. *Taylor-Baptiste v. Ontario Public Service Employees Union*, 2015 ONCA 495, concerning the role of the *Charter of Rights and Freedoms* in the interpretation of the Ontario *Human Rights Code* by the Human Rights Tribunal of Ontario, and in particular how the *Charter* protection of freedom of expression impacts on the Code's protections (the CCLA also intervened before the Ontario Superior Court of Justice, 2014 ONSC 2169);

206. *Frank v. Canada (Attorney General)*, 2015 ONCA 536, concerning the constitutionality of provisions of the *Canada Elections Act* that preclude Canadian citizens who have resided outside of the country for more than five years from voting in federal elections;

207. *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Bombardier Inc. (Bombardier Aerospace Training Center)*, 2015 SCC 39, concerning the application of the Quebec *Charter* to a Canadian company's refusal to train a Pakistan-born Canadian pilot because he was refused clearance under a US program requiring security checks for foreigners;

208. *Disciplinary Hearings of Superintendent David Mark Fenton*, Toronto Police Service Disciplinary Tribunal decision dated 25 August 2015, regarding whether the mass arrest of hundreds of individuals at two locations during the G20 Summit constituted a violation of ss. 2 and 9 of the *Charter* and whether the officer's conduct amounted to misconduct under the *Police Services Act*;

209. *R. v. Appulonappa*, 2015 SCC 59, and *B010 v. Canada (Citizenship and Immigration)*, 2015 SCC 58, concerning the constitutionality of criminal and immigration sanctions imposed on those who provide assistance to refugee claimants as "human smugglers" (CCLA also intervened in *R. v. Appulonappa* before the BC Court of Appeal, 2014 BCCA 163);

210. *Schmidt v. Attorney General of Canada*, 2016 FC 269, concerning the proper interpretation of statutory provisions requiring the Minister of Justice to report to Parliament on the constitutionality of proposed legislation;

211. *Good v. Toronto (Police Services Board)*, 2016 ONCA 250, regarding the certification of a class action arising from alleged police misconduct during the 2010 G20 Summit;

212. *Villeneuve c. Montréal (Ville de)*, 2016 QCCA 2888, concerning the constitutionality of a City of Montreal by-law that prohibits the holding of gatherings and marches without informing the

police of the itinerary and location and prohibiting individuals participating in such gatherings from covering their faces without valid justification;

213. *Groia v. Law Society of Upper Canada*, 2016 ONCA 471, concerning a finding of professional misconduct made against a lawyer on the basis of incivility and the question of when such a finding impacts freedom of expression;

214. *Trinity Western University v. Law Society of Upper Canada,* 2016 ONCA 518, considering the Law Society of Upper Canada's decision not to accredit the proposed law school at Trinity Western University, and whether the decision strikes an appropriate balance between freedom of religion and equality;

215. *Thompson v. Ontario (AG),* 2016 ONCA 676, concerning a constitutional challenge to schemes in Ontario's *Mental Health Act* that permit involuntary detention and coerced medical treatment for individuals who are not a danger to themselves or others; and

216. *Jean-François Morasse v. Gabriel Nadeau-Dubois*, 2016 SCC 44, concerning an appeal of a contempt conviction in respect of an individual who made public statements about the legitimacy of certain protest activities (CCLA also intervened before the Quebec Court of Appeal, 2015 QCCA 78).

CCLA Interventions – Hearing or Decision Pending

217. *Mitchell v. Jackman* (Newfoundland and Labrador Supreme Court File No. 2011 01G 7277), concerning the constitutionality of provisions of the Newfoundland *Elections Act* which allow for special ballot voting prior to an election writ being dropped;

218. *Ernst v. Energy Resources Conservation Board* (Supreme Court of Canada File No. 36167), concerning the availability of a Charter remedy where a statute has a general immunity clause;

219. *R. v. Donnelly* and *R. v. Gowdy* (Ontario Court of Appeal File Nos. C59680 and C59875), concerning the availability of a sentence reduction remedy under s. 24(1) of the *Charter* and whether such a remedy allows courts to reduce an offender's sentence below the statutory mandatory minimum;

220. *R. v. Saikaley* (Ontario Court of Appeal File No. C57065), concerning the proper interpretation of the *Customs Act* in relation to the warrantless search of cell phones (or other electronic devices) of anyone entering Canada;

221. *Google Inc. v. Equustek Solutions Inc., et al.* (Supreme Court of Canada File No.: 36602), concerning the validity of an order of the BC Supreme Court that requires a global internet search service to delete certain websites from its search results worldwide;

222. *BC Freedom of Information and Privacy Association v. Attorney General of British Columbia* (Supreme Court of Canada File No.: 36495), concerning the constitutionality of provisions of the British Columbia *Election Act* requiring registration of third party advertisers without a threshold spending limit; and

223. *Bingley v. Her Majesty the Queen* (Supreme Court of Canada File No.: 36610), regarding whether a *Mohan voir dire* is required to determine the admissibility of testimony from a Drug Recognition Expert.

The CCLA has also litigated significant civil liberties issues as a party in the following cases and inquests:

224. *Canadian Civil Liberties Association v. Ontario (Minister of Education)* (1990), 71 OR (2d) 341 (CA), reversing (1988), 64 OR (2d) 577 (Div Ct), concerning whether a program of mandatory religious education in public schools violated the *Charter*'s guarantee of freedom of religion;

225. *Canada (Canadian Human Rights Commission) v. Toronto-Dominion Bank (re Canadian Civil Liberties Association)*, [1996] 112 FTR 127, affirmed [1998] 4 FC 205 (CA), concerning whether an employer's policy requiring employees to submit to a urine drug test was discriminatory under the *Canadian Human Rights Act*;

226. *Corporation of the Canadian Civil Liberties Association v. Ontario (Civilian Commission on Police Services)* (2002), 61 OR (3d) 649 (CA), concerning the proper evidentiary standard to be applied under the *Ontario Police Services Act* when the Civilian Commission on Police Services considers the issue of hearings into civilian complaints of police misconduct;

227. *Canadian Civil Liberties Association v. Toronto Police Service*, 2010 ONSC 3525 and 2010 ONSC 3698, concerning whether the use of Long Range Acoustic Devices (LRADs) by the Toronto Police Service and the Ontario Provincial Police during the G20 Summit in June 2010 violated Regulation 926 of the *Police Services Act* and ss. 2 and 7 of the *Charter*;

228. *Inquest into the Death of Ashley Smith* (Office of the Chief Coroner) (Ontario), concerning the death of a young woman with mental health issues, who died by her own hand while in prison, under the watch of correctional officers;

229. *Corporation of the Canadian Civil Liberties Association and Christopher Parsons v. Attorney General (Canada)* (Ontario Superior Court File No. CV-14-504139), an application regarding the proper interpretation of certain provisions of the federal *Personal Information Protection and Electronic Documents Act* which have been used to facilitate warrantless access to internet subscriber information (application ongoing);

230. *Corporations of the Canadian Civil Liberties Association v. Attorney General (Canada)* (Ontario Superior Court File No. CV-15-520661), an application regarding the constitutionality of provisions of the *Corrections and Conditional Release Act* which authorize "administrative segregation" in Canadian correctional institutions (application ongoing); and

231. *Corporation of the Canadian Civil Liberties Association, et al. v. Attorney General (Canada)* (Ontario Superior Court File No. CV-15-532810), an application concerning the constitutionality of provisions of various pieces of legislation as a result of the *Anti-Terrorism Act, 2015* (application ongoing).