



Submissions on Bill 94 – An Act to reinforce laicity in the education network

Canadian Civil Liberties Association

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The Canadian Civil Liberties Association (the “CCLA”) is a national, non-profit, non-partisan and non-governmental organization. As a public interest organization that promotes the rights and freedoms of all peoples in Canada, we make these submissions to this Committee to highlight our concerns around rights and freedoms issues in the current drafting of Bill 94 – An Act to reinforce laicity in the education network.

As further detailed below, CCLA shares the concerns raised by many civil society organizations in Quebec about the rights and freedoms issues at stake by proposed legislative measures purporting to reinforce laicity in Quebec’s education system. We appreciate the opportunity to provide these written submissions to the Committee.

Bill 94 – An Act to reinforce laicity in the education network

The stated aim of Bill 94 is to reinforce laicity in the education network by amending the *Education Act*⁵ and the *Act respecting private education*.⁶ Bill 94 expands the scope of the ban on wearing religious symbols imposed by the *Act respecting the laicity of the State*, CQLR c. I-0.3, to all support workers in Quebec’s public and private education systems and prohibits students from covering their faces at school. In so doing, Bill 94 infringes (1) freedom of religion, (2) freedom of expression, (3) equality rights, and (4) minority language education rights.

In addition, Bill 94 also codifies the Government of Quebec’s *Decree 702-2023* (the “**Prayer Ban Decree**”) of April 2023, which effectively banned visible prayer in public schools. CCLA along with the National Council of Canadian Muslims (the “NCCM”) is leading a constitutional challenge to both the *Act respecting the laicity of the State* and the Prayer Ban Decree.

Impact of Bill 94

While the CCLA recognizes the need to ensure that students and staff have safe learning environments and workplaces, Bill 94 is not rationally linked to this objective. Rather, it is a draconian law that infringes the fundamental rights and freedoms of students, teachers, and staff in Quebec.

Bill 94 extends the prohibition on wearing a religious symbol to members of a school service centre’s personnel as well as to persons who provide services to students in accordance with a contract. Consequently, Bill 94 perpetuates and exacerbates the harmful civil liberties violations caused by the *Act respecting the laicity of the State* to students and others working in Quebec’s education system. Like the *Act respecting the laicity of the State*, Bill 94 has a disproportionate and deleterious impact on women and people from minority racial, religious, and immigrant communities, and is consequently discriminatory.

Following the implementation of the *Act respecting the laicity of the State*, the NCCM published a report outlining the law’s impact on Muslim women during the COVID-19 pandemic.¹ The report found that many Muslim women faced more hostile work environments, more discriminatory workplace practices, and were disadvantaged and ostracized in multiple ways in a climate of increasing social discord. Several Muslim women also reported a feeling that they lost their sense of belonging, alongside high levels of alienation and a bleak future outlook. Fundamentally, many Muslim women in Quebec felt that the *Act respecting the laicity of the State* created a social and political climate where they had a marked target on their backs. Bill 94 will unquestionably exacerbate these harms.

Alarming, Bill 94 also requires students to have their face uncovered when they are on school premises, including at public schools, vocational training centres, adult education centres, or private educational institutions. This requirement also applies to homeschooled children and their parents when any service is being provided for them by a school service centre. In addition, to students, the Bill imposes the obligation to have one’s face uncovered on any person required to provide services to students when the person is providing those services, as well as on any person required to be in contact with students on school premises. This is a massive expansion of the *Act respecting the laicity of the State* into the private homes of students and constitutes an unprecedented intrusion of the state into the private lives of its residents, resulting in a number of civil liberties violations.

Civil Liberties Impacted by Bill 94

Bill 94 infringes fundamental civil liberties enshrined in the Quebec *Charter of Human Rights and Freedoms* (the “**Quebec Charter**”) and the Canadian *Charter of Rights and Freedoms* (the “**Canadian Charter**”). Like the *Act respecting the laicity of the State*, Bill 94 acknowledges its manifest unconstitutionality by invoking the notwithstanding clauses (i.e. the constitutional overrides) of both the Quebec Charter (section 52) and the Canadian Charter (section 33).

Freedom of Religion (*Section 3 of the Quebec Charter and Section 2(a) of the Canadian Charter*)

Bill 94 infringes the constitutional right to religious freedom in Quebec. Freedom of religion protects one’s ability to act in accordance with their sincerely held religious beliefs. Courts have long confirmed that this constitutional guarantee includes the right to wear religious symbols and to pray.² By expanding Quebec’s existing prohibitions on the wearing of religious symbols to support staff in schools, by prohibiting students from having their faces covered on school property, and by codifying in law a total ban on prayer in public schools, Bill 94 interferes with the ability of certain students and school support workers, particularly Muslim women and girls, to act in accordance with their religious beliefs in a manner that is not justified in a free and democratic society. The codification of the prohibition on overt prayers also significantly impairs

¹ Hasan, Nadia Z., Lina El Bakir, Youmna Badawy, “Social Discord and Second-class Citizenship: A Study of the Impact of Bill 21 on Quebec Muslim Women in Light of the COVID-19 Pandemic” (2024), National Council of Canadian Muslims.

² *Multani v. Commission scolaire Marguerite-Bourgeois*, [2006 SCC 6](#); *Webber Academy Foundation v Alberta (Human Rights Commission)*, [2024 ABCA 194](#).

religious freedoms of students and staff who may require religious accommodations. Ultimately, Bill 94 forces people to choose between their faith and their pursuit of their education and professional careers.

Freedom of Expression (Section 3 of the Quebec Charter and Section 2(b) of the Canadian Charter)

By restricting the content of religious expression, controlling access to certain religious messages, and limiting individuals' ability to convey messages that are meaningful to them, Bill 94 is also infringing the constitutional right to free expression. This right protects activities or communications that convey or attempt to convey meaning. None of these restrictions are justified in a free and democratic society. To the contrary, schools are places where one would expect a heightened sensitivity to the importance of constitutional protections for free expression since they are environments of learning, discourse, self-exploration and self-fulfillment, and they ultimately participate in the search for truth. Furthermore, these restrictions on expression can also significantly harm minority religious community members' sense of belonging in Quebec society. This is especially disheartening since Bill 94 has a significant impact on the rights of young people and students who are at an age where they are exploring and defining their identities.

Equality Rights (Section 10 of the Quebec Charter and Section 15 of the Canadian Charter)

Bill 94 has a disproportionate and deleterious impact on women and people from minority racial, religious, and immigrant communities, and is consequently discriminatory. Therefore, like the *Act respecting the laicity of the State*, Bill 94 infringes the constitutional right to equality in Quebec. Bill 94 clearly creates a distinction based on the enumerated grounds of religion and sex, with disproportionate impacts on certain minority groups, including Muslim women and girls, who will be disproportionately affected by Bill 94's ban on wearing religious symbols and on the requirement to provide public services with their faces uncovered. Likewise, the prohibition on prayers in school also undermines equality rights of students and staff in the education sector.

The Notwithstanding Clauses (Section 52 of the Quebec Charter and Section 33 of the Canadian Charter)

Bill 94 acknowledges its manifest unconstitutionality by incorporating the notwithstanding clauses found in section 52 of the Quebec Charter and 33 of the Canadian Charter. The pre-emptive use of the notwithstanding clauses to override fundamental rights and freedoms of Quebec students and education workers is alarming. The use of these overrides of fundamental rights and freedoms was never intended to be a blanket shield to enable governments to trample on the rights of individuals and vulnerable members of society. The notwithstanding clauses are not weapons to be used to strip anyone of their rights or diminish existing rights protections, especially for vulnerable groups.

If the Quebec government is confident that the rights limitations provided for in Bill 94 are reasonable and justified, it should have the courage to defend its legislation before the courts. Instead, the government is choosing to short-circuit the democratic dialogue that is at the heart of a free and democratic society.

Recommendation

Given the manifestly unconstitutional nature of Bill 94, we strongly recommend that Bill 94 be withdrawn. We urge members of the National Assembly to vote against Bill 94 as it is currently drafted. Any future legislative efforts to promote safe and enriching learning environments and workplaces for students, teachers and educational support staff should not serve as a pretext to enact discriminatory measures that trample on civil liberties. Rather, the CCLA would urge that any legislative measures proposed to reinforce laicity in the education sector be pursued in consultation with students, teachers, and educational support workers, especially those individuals from historically marginalized and equity-seeking communities who are disproportionately impacted by such legislation.