

CHECK ON DELIVERY

Good Morning/Bonjour

My name is Harini Sivalingam. My pronouns are she/her.

I am the Director of the Equality Program at the Canadian Civil Liberties Association and join you today from the unceded Anishinabe Algonquin territory.

The Canadian Civil Liberties Association, along with the National Council of Canadian Muslims and Madame Hak, welcome the decision to grant leave in our constitutional challenge to Bill 21

It took five years to get here, but the highest court in Canada will finally get to weigh in on this important legal challenge.

For over five years, Bill 21 has been infringing on the dignity, rights and freedoms of individuals who work in or aspire to work in the public service in Quebec.

Bill 21 prohibits certain public sector workers from wearing religious symbols such as crosses, hijabs, turbans and yarmulkes.

Let us be clear, Bill 21 is a discriminatory law that violates the fundamental rights and freedoms of Quebecers.

It negatively impacts individuals based on their religious beliefs

It is clear that Bill 21 has a disproportionate impact on specific religious minority groups, such as Muslim, Sikh and Jewish communities. Especially women!

To make things worse, when passing Bill 21, the Government of Quebec used the notwithstanding clause to override important Charter protections such as religious freedoms and equality rights.

We could not let the Government of Quebec do this without a fight.

CCLA along with the National Council of Canadian Muslims, and an affected individual, Madame Hak– who was at the time a teacher candidate, launched a constitutional challenge to Bill 21 in 2019.

We have been fighting Bill 21 at every level of court in Canada since.

And we vowed not to give up this fight and were willing to go all the way to the highest court in Canada – the Supreme Court of Canada.

We are today to say that we are ready to vigorously defend the rights and freedoms of everyone who has been harmed by Bill 21

Since this discriminatory law came into force, religious minorities have faced increased marginalization and exclusion in Quebec.

Allowing Bill 21 to continue to harm religious minorities is a setback for equality, justice and freedom in Quebec.

The Quebec Court of Appeal decision cannot be the final word on this issue. And we are glad the SCC agreed with us.

Unfortunately, the discriminatory impact of Bill 21 on the rights and freedoms of a wide range of public sector employers will continue to have harmful impacts until it is deemed unconstitutional in its entirety.

That is why CCLA along with our litigation partners the NCCM and Madame Hak will continue to fight against Bill 21.

We know that Bill 21 has perpetuated systemic discrimination and hindered the fundamental rights and freedoms of countless religious minorities across the province of Quebec.

Especially for Muslim women, Sikhs, Jews and many racialized and newcomer communities.

Even the province of Quebec knows that Bill 21 violates the Charter rights of Quebecers. That is why they had to use the notwithstanding clause to override these important rights and freedoms.

The lower courts have also recognized some of the harmful effects of Bill 21 but felt they were restricted by the use of the Charter override clause.

The courts felt their hands were tied

It is now time for the SCC to weigh in on the role of the courts when the notwithstanding clause has been used

And whether the rights and freedoms guaranteed to all of us in the Charter can be taken away so easily by the government.

This case is about whether fundamental rights and freedoms that are core aspects of our democracy have any real meaning or if these rights can be so easily taken away through the Charter override.

What is at stake is whether the governments can violate our rights and freedoms without any judicial oversight.

The SCC has an opportunity to answer these questions and define what type of country Canada is – are we a democracy that values rights and freedoms or not.

Today some provinces are using the notwithstanding clause to restrict religious freedoms in Quebec, to rollback protections for trans and gender diverse students in Saskatchewan, and threatening to use it to criminalize unhoused people in Ontario.

Tomorrow the notwithstanding clause could be used by governments to strip away fundamental rights and freedoms such as freedom of expression, the right to a fair trial, or collective bargaining rights.

The notwithstanding clause was never intended to be used in this manner to restrict freedoms, roll back existing protections, and violate existing rights of marginalized and vulnerable communities.

It was intended to safeguard our existing rights and freedoms that are fundamental aspects of our democracy from erosion.

The Charter is not just a piece of paper that can be shredded without consequences.

The Charter is premised on foundational democratic and legal principles at the heart of what makes us a just, fair and equitable society.

We need to ensure that our Charter is protected and vigorously defend our most cherished rights and freedoms.

And that is exactly what we will do at the SCC when this case is heard

Thank you! Merci!