





RESEARCH ARTICLE / ARTICLE DE RECHERCHE

Quebecois *Laïcité* and Its Canadian Multicultural Other in the Debates Surrounding Law 21

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Abstract

Secularism has long been employed by states to signal their emancipation from “religion,” itself often positioned as unmodern and undemocratic. In this paper, we examine the ways in which secularism is understood in contemporary debates in Quebec. While secularism is typically employed to regulate religion, often with a focus on Islam, we show that with *An Act Respecting the Laicity of the State* (2019) its usage is mobilised to articulate the distinctiveness of the “Quebec nation.” Based on our discourse analysis of the 35 public briefs in favour of the Act, submitted to the Quebec legislature prior to its enactment, we show how most of these submissions define *laïcité* as a necessary tool to emancipate the Quebec nation from the rest of Canada. *Laïcité* is thus conceptualized as central to Quebec’s identity and constructed in opposition to a Canadian liberal-multicultural-Anglophone Other.

Keywords: secularism; Law 21; nationalism; governmentality; Quebec-Canada

Résumé

La laïcité a longtemps été utilisée par les États pour signaler leur émancipation de la « religion », elle-même souvent considérée comme antidémocratique et contraire aux principes modernes. Dans cet article, nous examinons la façon dont la laïcité est comprise dans les débats contemporains au Québec. Bien que la laïcité soit généralement employée pour réglementer la religion, souvent en mettant l’accent sur l’islam, nous montrons qu’avec la *Loi sur la laïcité de l’État* (2019), celle-ci est davantage mobilisée afin d’articuler le caractère distinctif de la « nation québécoise ». À partir de notre analyse discursive des 35 mémoires publics en faveur de la loi qui ont été soumis au législateur québécois avant la promulgation de la loi, nous montrons comment la plupart de ces mémoires définissent la laïcité comme un outil nécessaire pour émanciper la nation québécoise du reste du Canada. La laïcité est ainsi conceptualisée comme centrale à l’identité québécoise et construite en opposition à l’Autre, soit le Canada libéral, multiculturel et anglophone.

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Mots clés: *laïcité*; Loi 21; nationalisme; gouvernementalité; Québec-Canada

Introduction

In 2019, the Coalition Avenir Québec (CAQ) government in the province of Quebec, Canada successfully legislated a law to protect state secularism: *An Act Respecting the Laicity of the State* or “Law 21.”¹ Contrary to other contemporary secular legislation in the North Atlantic world, the 2019 legislative and public discussions that upheld *laïcité* in the province of Quebec are dissimilar. Indeed, these discussions are as much, if not more, about distinguishing the province from an Anglo-multicultural ethos prevailing in the rest of Canada (RoC), than they are about developing a legislative program related to the regulation of religion in the public sphere. In contrast with secular legislative regimes in other countries that have focused exclusively on the disciplining of specific religious traditions and practices, notably Islam, the Quebec case suggests that, for those in support of it, Law 21 serves as a significant expression of sovereignty for the “nation du Québec.”² To make this argument, we draw on the provincial parliamentary submissions written by individuals and organizations in response to the debate that followed the introduction of Bill 21, *An Act Respecting the Laicity of the State* in March 2019.³ Submissions are a window into the arguments of established stakeholders. We pay particular attention to the arguments presented in the thirty-five submissions written *in support* of Bill 21, which represent 38 percent of the ninety-two submissions, noting their emphasis on the need to encourage and protect the national emancipation and distinctiveness of Quebec in contrast to a multicultural Canada. More specifically, we chart three sub-themes in favour of the bill: first, a parallelism made in the submissions between 1977’s *Charter of the French Language*⁴ and Bill 21. Both legal projects are identified as central to ensuring a specific Quebec identity to flourish; both also employed the notwithstanding clause.⁵ Second, we see how the briefs put

¹ SQ 2019, c 12, often referred to in English in Quebec as “Law 21.” We distinguish between the concepts “*laïcité*,” “laicity,” and “secularism.” While a conceptual difference between secularism and *laïcité* has previously been established (e.g., Kuru 2009), the differences or similarities between *laïcité* and laicity have not been systematically theorized. While laicity has, to our knowledge, not been employed in a legal project before its inclusion in Law 21, it has been used on rare occasions by scholars. Baubérot with other scholars (Milot and Blancarte 2005) introduced it in the *International Declaration of Laicity* (2005) as a concept that enabled the harmonization of three principles related to of rights for free speech and worship, a separation of the state from religious institutions, and nondiscrimination more generally (in Baubérot 2008, 23). Baubérot et al.’s conceptualization thus differs from how it has been used as an English translation for *laïcité* in Law 21.

² Most submissions (73%)—including those in favour (22 of 35) and those against the bill (44 of 55)—promote the notion of a Quebec nation.

³ Bill 21, *An Act Respecting the Laicity of the State*, 1st Session, 42nd Legislature, Quebec, 2019 (Bill 21). In this article, we use “Law 21” to refer to the law that was passed in 2019. We use Bill 21 when we are referring to the submissions (and debates) on the proposed law prior to its passing.

⁴ SQ 1977, c 5 (often referred to in English by its pre-enactment name, “Bill 101” and in French as “loi 101”).

⁵ The law employs a notwithstanding clause to override the *Canadian Charter of Rights and Freedoms* and the Quebec *Charter of Human Rights and Freedoms* (chapter VI of the law). For more information, see

the Canadian judiciary and Quebec legislative spheres into opposition: the RoC is described as relying upon the judiciary, namely the Supreme Court of Canada (SCC), to manage questions of religious diversity, in contrast to Quebec, which is imagined as relying on the legislative sphere to address those same questions. And third, the briefs contrast “reasonable accommodation”—a framework that favours individual rights—in the RoC with more desirable “collective rights” in Quebec. Both the first (the linking of the *Charter of the French Language* and the *Act Respecting the Laicity of the State*) and the third (the negative depictions of accommodation and multiculturalism) themes focus on gender equality, capturing how the rights of cisgender women remain central to secular discourses, also in Quebec (Scott 2007; Selby 2012).

We examine how the thirty-five submissions in favour of Bill 21 characterize the necessary emancipation of the “Quebec nation” from a Canadian “Other.” We find this characterization interesting given that secularism and secular bills have elsewhere most often been constructed as emancipatory tools from a religious Other. To be fair, in the case of Quebec, this religious Other, whether Catholicism or Islam, is present in a number of submissions. But, as we will show, it is not the only Other present in those discussions. This distinction reminds us that secular logics and legislation enable the delimitation and construction of multiple Others that are generated depending on sociohistorical and political contexts. This case shows us how secular legislation cannot be understood solely as a management of religion, but also as a central process of governmentality (see Foucault 2001 [1982]). We conclude by considering the impacts of the argument for difference among those in favour of Bill 21, namely how they silence the commonalities between secular logics at work in Quebec and the RoC, and how they obfuscate their similar histories of colonialism.

Background: the Quebec Parliamentary Commission on Bill 21

Following its introduction on March 28, 2019 by Simon Jolin-Barrette, then-Minister of Immigration, Diversity and Inclusiveness for the CAQ government, Bill 21 was tabled at the National Assembly of Quebec.⁶ The bill is considered by many who submitted *mémoires* in opposition to it as a law that would impose additional structural barriers to employment for religious minorities and particularly for Muslim women, therein amplifying their socioeconomic, political, and epistemic exclusion (Taher 2024). Analyses of Bill 21 must be located within wider discussions of secularism in Quebec and in Canada (e.g., Moon 2008; Ryder 2008; Kislowicz 2013; Berger 2015; Klassen 2015; Seljak 2016; Selby et al. 2018; Dabby 2022). In Quebec, scholars have emphasized the debates around reasonable accommodations, starting in the early 2000s, as informing later discussions

Leydet (2020), Laniel and Perreault (2022), and <https://assnat.qc.ca/en/travaux-parlementaires/projets-loi/projet-loi-21-42-1.html>.

⁶ As enacted, Law 21 asserts the secularism of the state. It does so by prohibiting public officials in positions of authority (such as judges, police officers, as well as public primary and secondary school teachers) from wearing conspicuous religious symbols (chapter II of the law). Additionally, the law prohibits the giving or receiving of public services with a covered face (chapter III).

on secularism (e.g., Bilge 2010; Mahrouse 2010; Sharify-Funk 2010; Beaman 2012). More specifically, these debates led to the establishment of the Bouchard-Taylor Commission in 2007, and then a few years later to three attempts by different provincial governments to pass legislation to regulate religious signs and religious accommodations in Quebec society.⁷

The parameters set within Bill 21's parliamentary debates in Quebec included an invitation to the public to respond to the proposed law. Constituting a "strongly institutionalized form of citizen participation" (Leydet 2020, 6), parliamentary consultations—including submissions and public hearings—are an opportunity for individuals and organizations, who typically hold some expertise, to share their positions on the issues discussed in a legislative proposal, whether through a public written submission and/or subsequently by invitation to come and be heard by the Assembly (RAN, art 170). In the case of Bill 21, 92 written submissions were received.

Our analysis of the ninety-two submissions shows that 38 percent ($n = 35$) were decidedly in favour of Bill 21, 59.7 percent ($n = 55$) were against, and 2 percent ($n = 2$) did not take a formal position. Participants included researchers, members of community associations and organizations, members of public organizations, former political representatives, as well as individual citizens.⁸ As part of the consultation process, deputies of the parliamentary Commission then invited thirty-six individuals to share their views on the proposed bill at public hearings; some of those invited did not submit written positions.⁹ Despite the CAQ government self-congratulation for having conducted the hearings in a "calm" manner (Authier 2019), a number of scholars have shown how the public hearing structure engendered racial biases and exclusion (Mahrouse 2010).

⁷ For example, Bill 94, *An Act to establish guidelines governing accommodation requests within the Administration and certain institutions*, 1st Session, 39th Legislature, Quebec, 2010 (not enacted); 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*, 1st Session, 40th Legislature, Quebec, 2013 (not enacted); and Bill 62, *An Act to foster adherence to State religious neutrality and, in particular, to provide a framework for request for accommodations on religious grounds in certain bodies*, SQ 2017, c 19.

⁸ All submissions were submitted to the Parliamentary Commission on Bill 21 between 7 and 23 May 2019. While the National Assembly of Quebec's website provided some guidelines on the format, structure, and content of submissions, these varied considerably. Some took the form of policy reports submitted by NGOs or associations, and others were presented more like short letters written by concerned citizens. Once transmitted to the parliamentary Commission, submissions were made publicly available online. For the full list of individual and group parliamentary submissions (total of ninety-two), see <https://www.assnat.qc.ca/fr/travaux-parlementaires/commissions/CI/mandats/Mandat-41031/memoires-deposes.html>.

⁹ The list of participants invited to the parliamentary debates is the product of negotiations between members of the CAQ and the deputies of opposition parties (the Liberal Party, the *Parti Québécois*, as well as *Québec Solidaire*). Of the thirty-six individuals and groups invited to the parliamentary hearings, seventeen were in favour of Bill 21, eighteen were against, and one group did not take a formal position. It is particularly worth contrasting this supposed symmetry in the public hearings (despite the absence of religious minorities and particularly Muslim women, the first targets of the bill) with the asymmetry among the submissions, where a larger number of submissions were against Bill 21.

Secularism as a tool to emancipate from religion

The field of secularism studies has grown significantly in a number of disciplines over the past two decades. Some of that literature has focused on explaining the specificities of models of secularism. Critical scholars have pointed to the importance of considering how colonial histories affect the shape national models take (Kuru 2009; Bowen 2008; Laxer 2019; Benhadjoudja 2022), while others have paid attention to how models of religious governance differ, depending on their histories (Burchardt 2020; Martínez-Ariño 2021). Critical secular studies scholars have played a pivotal role in arguing that secularism is more than simply the separation of religion and politics; the politics inherent within the separation must also be examined (Mahmood 2006; Hurd 2008; Barras 2017; Selby et al. 2018). To effectively “separate,” the state first needs to delimit religion and define what it is separating from. In that process, what constitutes religion and the secular alter depending on sociopolitical contexts (see Beaman 2020).

Scholars have tied this political debate to wider discussions on the political and structural violence of the modern state vis-à-vis racial minorities and Indigenous communities (e.g., Mahmood 2015; Benhadjoudja 2022). In contemporary politics in the North Atlantic world it is Islam, including its associated “symbols” (the headscarf and other modest dress), that have been the object of secular policies, therein enabling states to regulate its presence in the public realm (e.g., Scott 2007; Elver 2014; Korteweg and Yurdakul 2014; Selby 2014; Barras 2017; Jahangeer 2022). Thus, secularism is here defined in relation to this Muslim Other, and as representing everything an essentialized Islam supposedly does not: progress, gender equality, enlightenment, modernity, living well together. It is understood as a tool that allows for the emancipation of society from this religious Other and an assurance of these other features.

In some cases, conceptualizations of secularism are deeply related to nation-building. Nations like Turkey and France have mobilized it to emancipate themselves from the putative grip religious orders had on their countries before they became republics (see Kuru [2009] on this point). In Turkey, secularism has often been positioned as constitutive of its modernity and mobilized so to manage Muslim religious communities (Keyman 2007; Barras 2014; Göle 2016; Yavuz and Öztürk 2019). In a similar vein, in contemporary France, secularism has often been articulated to promote republican citizenship in contrast to so-called divisive religious allegiances, particularly those of Muslim religious minorities (Laborde 2005; Scott 2007). In general, this scholarship encourages us to map the politics of secular claims, how these claims are mobilized to bolster national imaginaries and sensibilities (see e.g., Asad [2018]), and how they are constructed as related to a religious Other.

In this article, we build on this relational and critical understanding of secularism by inviting an expanded understanding of this Other. In the case of debates and legislation surrounding *laïcité* in Quebec, if processes of othering and racializing of Islam are woven in the submissions, the primary figure against which it is defined is vis-à-vis a Canadian, anglophone, multicultural Other. While understandings of religious diversity are embedded in this Canadian Other, characterized by opponents as excessive religious freedom,

accommodation, and identity-ambiguous tolerance, we posit that this Other is more complex and not only defined through this religious dimension (language politics for instance also constitute an important dimension). Indeed, our central argument is that we need to pay attention to how *laïcité* is understood in the submissions as a principle that will allow the francophone province of Quebec to emancipate itself as a nation from the RoC, read as anglophone. In theory, so doing reveals how claims about *laïcité* can be related to the protection of collective rights—in this particular case, focused on the rights of francophone citizens imagined as a nation. In practice, being aware of this insight is important, as it is referenced as a justification for the employment of Law 21's notwithstanding clause.

In other words, through this case study of articulations of secularism in contemporary Quebec, we argue for the need to broaden understandings of secular governmentality to include a range of Others that intersect with religious others but are not exclusively about religion. This approach unveils how secular claims can be deeply entangled in the construction of national imaginaries *and* used to bolster collective rights that are at the roots of these imaginaries.

Analysis of public submissions in favour of Bill 21

Drawing on our analysis of the thirty-five public submissions *in favour* of Quebec's Bill 21, submitted to National Assembly prior to the passing of the law in 2019, in this section we show more concretely how these submissions mobilize *laïcité* as a necessary tool to emancipate a Quebec nation from the RoC. In order to undertake this analysis, we manually coded the ninety-two briefs submitted to the provincial Parliamentary Commission on Bill 21. We employed an inductive approach to our coding of the submissions, which revealed a strong association between secularism and Quebec national emancipation.¹⁰

While anyone could submit a reflection on Bill 21 to the National Assembly, the individuals and organizations who did are arguably those who had sufficient resources to do so. While these individuals are not representative of all the voices that have been heard in public, media, and parliamentary debates on the regulation of religion in Quebec, they are nonetheless important as they are those with enough capital to directly inform discussions at the National Assembly.¹¹

State laicity and the French language: a parallel struggle for the Quebec nation

The first theme woven through the public submissions in favour of Bill 21 is a recurring parallelism made between the protection of secularism by Bill 21 (in 2019) and the protection of the French language in the *Charter of the French*

¹⁰ All the submissions cited in this article can be viewed on the Quebec Parliamentary Assembly's website at <https://www.assnat.qc.ca/fr/travaux-parlementaires/commissions/CI/mandats/Mandat-41031/memoires-deposes.html>.

¹¹ Our primary objective here is to understand the ways these claims are constructed. For our earlier critiques of some of these claims, see Selby et al. (2018), Barras (2021), and Taher (2024).

Language (in 1977).¹² Both are imagined as ensuring a specific Quebec identity to flourish. The parallelism focuses on the protection of the French language as a major national cause, the role of Quebec's population in defining its own democratic institutions, and rhetoric surrounding the promotion of gender equality.

First, similarly to how the *Charter of the French Language* was important in how Quebec constructed itself as a French-speaking society in opposition to the surrounding Canadian English majority, by making *laïcité* a central organizing feature, Bill 21 is understood in those submissions as positioning Quebec as different from multicultural Canada. For instance, as the *Mouvement national des Québécoises et Québécois* (MNQ)¹³ explains in its submission, as with the protections of the French language, Bill 21 constitutes a major identitarian and political moment in the history of the Quebec nation. Like the past debates on the *Charter of the French Language*, the conceptions and practices of secularism in Bill 21 are sites of resistance. In this way, the *Rassemblement pour la laïcité* (RPL)¹⁴ emphasizes how, while constituting a significant change, the bill will positively impact the future, remedying conflict:

In the 60s and 70s, [...] the linguistic question divided citizens, neighbourhoods and families. Voted in 1977, Law 101 contributed in an important way to quieting linguistic conflicts. As a society, we made French our common language and it is with pride that we speak about the children of Law 101. In a few years, it will also be with pride that we will speak of the children of Law 21. (RPL 2019)

The RPL thus explains that resistance to Bill 21 will eventually subside, as occurred with the *Charter of the French Language*, and Quebecers will appreciate its benefits as it will appease social tensions (RPL 2019). For this reason, the RPL warns political elites they must not “give in” to “political blackmail” coming from religious minorities who define Bill 21 as discriminatory. In his submission, Gérard Montpetit¹⁵ places Bill 21 in a historical continuity of laws that have, in his telling, rightly shaped the province's politics. Placed in this chronology, beginning with the Quiet Revolution, the bill does not discriminate against minorities. Rather, like the protection of the French language and francophone culture, it sustains Quebec's culture:

¹² This parallel between the two laws is, of course, debatable. Arguably, language rights are different from religious ones, insofar as the consequences of being required to learn a language differ from those required to modify a religious practice—an action that for some believers is experienced as a moral and/or physical harm (Jahangeer 2022).

¹³ The *Mouvement national des Québécoises et Québécois* (MNQ) is a politically independent civil society movement that brings together nineteen member groups across Quebec.

¹⁴ Established in 2010, the *Rassemblement pour la laïcité* is a group of associations and individuals committed to promoting the establishment of state secularism in Quebec.

¹⁵ Gérard Montpetit is a member of the *Comité des citoyens et citoyennes pour la protection de l'environnement maskoutain* (CCCPEM)—a grass-roots environmental organization based in the north of the province.

For 60 years, some people have used an extreme language to position themselves against “the superior interests of Quebec”, according to the famous sentence of the Prime Minister Robert Bourassa. The mayor of Hampstead, Mr. William Steinberg, speaks of “ethnic cleansing.” In doing so, he is on a similar wavelength as those that were opposed to Jean Lesage’s nationalisation of electricity, to Jean-Jacques Bertrand’s Law 63, Robert Bourassa’s Law 22, René Levesque’s Law 101, to the people who were in favour of a YES to the referendums of 1980 and 1995, to those that were in favour of the Meech Lake Accord “to bring Quebec back to the constitutional lap”, without forgetting Mme Marois’s Charter. [...] Underlining the debate around Bill 21, is the question of the long-term survival of our language and French culture on North American soil. (Montpetit 2019)

Second, among the submissions in favour of Bill 21, several underline that, like the *Charter of the French Language*, it will enable the province’s modernization and democratization (as advanced by the *Association québécoise des Nord-Africains pour la laïcité* [AQNAL] and the MNQ). As the MNQ notes, referring to a long-standing slogan from the Quiet Revolution—*Être maître chez soi* (to be a master of your own home)—the proposed bill is part of a history of self-determination. Several submission writers situate this progress as beginning with the Quiet Revolution in the 1960s, in particular with the deconfessionalization of public schools (see Proulx [1999] on this deconfessionalization in Quebec). In this vein, the *Mouvement laïque québécois* (MLQ)¹⁶ explains that Bill 21 is a continuing step forward in affirming the secularism of the state. So too Guy Rocher¹⁷ recalls that this change in schools was what “most transformed Quebec, modernized it” because it granted “the accessibility of education to all” (Rocher 2019). Secularism was thus a key factor in democratizing and modernizing the province and Bill 21 allows Quebec “to reconnect with this project of ‘national liberation’ [...] initiated by the Quiet Revolution” (ibid.).

For the *Ligue d’Action nationale*,¹⁸ the bill signals the province’s rejection of “the domination of British colonialism and its ally, the Catholic Church.” The *Ligue* traces this action back further to the nineteenth-century “Patriots’ national liberation project.” In this way, echoing the well-known rhetoric of *Être maître chez soi*, this organization argues that the bill’s adoption will secure the need to “fully control” Quebec’s future in the face of the domination of this Other. According to the *Ligue*, despite the challenges to it, Bill 21 is necessary because, like the *Charter of the French Language* and the *Act respecting the exercise of the*

¹⁶ Since its inauguration in 1980, the *Mouvement laïque québécois* has been a civil society organization that campaigns for the secularism of the state. It was originally configured as the *Association québécoise pour l’application du droit à l’exemption de l’enseignement religieux* (AQADER).

¹⁷ Guy Rocher is professor emeritus of Sociology at the University of Montreal. He participated in the drafting of the *Charter of the French Language*. He was also a member of the Royal Commission on Education initiated in April 1961 in Quebec, known as the Parent Commission.

¹⁸ The *Ligue d’Action nationale*, originally founded in 1917, aims to investigate the traditions and the Catholic and francophone character of Quebec. The league produces a monthly journal called *L’Action nationale*.

fundamental rights and prerogatives of the Quebec people and the Quebec State of 2000,¹⁹ “the legitimacy [of] institutions [of the state] rests on the authority of the people and not on an imposed constitution” (ibid.). For Jean-Claude Bernatchez,²⁰ Bill 21 constitutes a historical “quest for identity” by the majority population and this quest anchors the Quebec nation as secular and francophone.

Several submission writers explain that elected Quebec politicians have the responsibility to protect Quebec’s national history and identity, and Bill 21 effectively supports these projects. As the *Fédération québécoise des municipalités* (FQM)²¹ adds, the debates on secularism, sparked by Bill 21, are “difficult.” For this reason, the FQM salutes the “political courage [of Quebec elected officials] to advance things” (FQM 2019). Likewise, for Guy Durand,²² the protection of Quebec’s history and heritage through the maintenance of Catholic religious signs, like Catholic-based street and place names, is necessary. He explains, “as Mathieu Bock-Côté²³ writes, the crucifix [...] also recalls [...] ‘our inscription in the History of Western Civilization’” (FQM 2019). The bill is therefore depicted as reinscribing Quebec values.

Thirdly, among the submissions in favour, several explain that like the *Charter of the French Language*, Bill 21 contributes to affirming the principles that determine the distinctiveness of the Quebec nation. Indeed, these submissions approach secularism as a major step to ensure that gender equality becomes a foundational principle, guaranteeing historical hard-won achievements in Quebec feminist struggles. For instance, the organization *Pour les droits des femmes du Québec* (PDF-Québec)²⁴ explains that “For women, this emancipation from religious dogma has led to major advances. [...] Equality between men and women cannot be achieved without this double base: democracy and secularism” (PDF 2019). The *Conseil du statut de la femme* (CSF)²⁵ considers, for its part, that “the secularism of the State” is a “bulwark against religious influences that can undermine women’s rights and gender equality” (CSF 2019). Similarly, the

¹⁹ *An Act respecting the exercise of the fundamental rights and prerogatives of the Quebec people and the Quebec State*, SQ 2000, c 46 (enacted May 30, 2000). This was a response to the federal *Clarity Act*, SC 2000, c 26, tabled by Canadian Intergovernmental Affairs Minister Joseph Facal under the Parti Québécois government of Lucien Bouchard. It defends the fundamental rights for the people of Quebec “to freely choose the political system and the legal status of Quebec” (RSQ, c E-20.2) and ruled that the majority required in a referendum is a 50 percent + 1 vote.

²⁰ Jean-Claude Bernatchez is professor in the Department of Human Resources Management at the University of Quebec at Trois-Rivières.

²¹ The *Fédération québécoise des municipalités* is made up of elected Quebec municipal officials and aims to defend the political and economic interests of the regions.

²² Guy Durand is professor emeritus of Theology from the University of Montreal.

²³ Mathieu Bock-Côté is a Quebec columnist who has spoken publicly in favour of Bill 21.

²⁴ Created in 2013, the organization *Pour les droits des femmes du Québec* is a group that defines itself as feminist, citizen, mixed, nonpartisan, universalist, and for secularism.

²⁵ The *Conseil du statut de la femme* is a government consulting and research organization funded by the province of Quebec. It advises the minister responsible for the Status of Women and the Government of Quebec on any subject related to equality and respect for the rights and status of women. The council is made up of a president and ten women representing women’s associations, universities, socioeconomic groups, and labour associations.

Association féministe d'éducation et d'action sociale (AFEAS)²⁶ emphasizes gender equality in a secular Quebec. They note: "Quebec is a secular, French-speaking state where women and men are equal" and where "Quebecers have worked hard to gain the rights [inhabitants] are enjoying today" (AFEAS 2019). The religious past, when Catholicism regulated "all aspects of their lives" (ibid.), must never occur again. At risk are historically gained rights, such as "the right to vote, the right to legal equality with one's husband, the right to contraception, the right to abortion" (ibid.).

This argument suggests that religious traditions discriminate against women while secular frameworks do not. As Jean-Claude Bernatchez explains, "certain religious beliefs disadvantage the condition of women" and "are discriminatory against women" (Bernatchez 2019). Christiane Pelchat²⁷ underscores how "the secularization of our school system had an effect of democratizing education, especially for girls" (Pelchat 2019). For Pelchat, religious symbols are particularly problematic as they convey sexist and discriminatory messages. Indeed, for these interlocutors, religious symbols, specifically Islamic ones, undermine gender equality. In their submission, Djemila Benhabib and Louise Mailloux²⁸ (2019) explain how the Islamic headscarf constitutes a "sexist symbol." Likewise, Nadia El-Mabrouk and Leila Bensalem²⁹ (2019) point out that wearing the Islamic headscarf quells Quebec's quest for secularism and they argue that wearing the Islamic headscarf goes against gender equality. El-Mabrouk and Bensalem (2019) also worry that the headscarf's presence will dangerously fuel Canadian multiculturalism in the province. In this way, as Pelchat argues, secularism becomes a tool to achieve gender equality and the Quebec nation's political emancipation and distinctiveness: "The declaration of secularism is a prerequisite for women's equality and democracy, but also for the emancipation of the Quebec nation, which is expressed through the French language, the equality of women and men, and the separation of the State from religion" (Pelchat 2019).

Thus, ensuring that gender equality is protected through Bill 21 is as essential for Pelchat, paralleling the protection of the French language with the *Charter of the French Language*.³⁰ Beyond the protection given to cisgender equality, secularism could, for many supporters of Bill 21, also protect sexual freedoms more

²⁶ The Association féministe d'éducation et d'action sociale defends the interests of Quebec and Canadian women vis-à-vis governments, municipal councils, and public and para-public institutions.

²⁷ A former member of the Liberal Party, Christiane Pelchat is also the former president of the Council for the Status of Women (2006–2011). Beginning in 2014, she founded and became president of the Serge-Marcel Foundation and director of the National Democratic Institute in the Ivory Coast, but she continues to intervene in public debates concerning secularism in Quebec.

²⁸ Djemila Benhabib is a Franco-Algerian journalist and author of *Ma vie à contre-Coran*, published in 2009. Louise Mailloux is a professor of philosophy at the Cégep du Vieux Montréal. They are co-founders of the *Collectif citoyen pour l'égalité et la laïcité* (CCIEL).

²⁹ Nadia El-Mabrouk is professor in the Department of Computer Science and Operational Research at the University of Montreal. She is also a member of the organization, *Pour les droits des femmes du Québec* (PDF-Québec) and of the *Association québécoise des Nord-Africains pour la laïcité* (AQNAL). Leila Bensalem is a retired high-school teacher who lives in Montreal.

³⁰ For Christine Pelchat, this is a reason that justifies the use of the notwithstanding clause in both cases.

broadly. In this way, for PDF-Québec, “secularism is therefore necessary to protect the rights of gay and lesbian people”; because “these rights are therefore very recent, they are fragile when religious laws require recognition by the State” (PDF 2019).

Contrasting the legislative regimes of Quebec and Canada

A second overarching trope within the submissions contrasts the RoC as relying on the SCC to successfully arbitrate questions on religion in the public realm, with Quebec described as privileging a legislative route. A number of submissions develop arguments to flesh out this trope, namely that because Canada is a federation it should rely on a “margin of appreciation” principle to navigate questions related to religious diversity. The concept of “margin of appreciation” has been used by the European Court of Human Rights in cases related to religious freedom and secularism, where the court has given leeway to nation states to interpret these concepts contextually (Gökariksel and Mitchell 2005; Danchin 2011; Barras 2012, 268; Mégret 2020). Following this logic, several submissions in favour of Bill 21 argue that visions of religious freedom and secularism should differ between provinces (particularly for Quebec), and thus that applying the margin of appreciation would be a way to reflect and do justice to provincial variations. This argument is well articulated in Patrick Taillon’s submission.³¹

The case law of other jurisdictions, notably the European Court of Human Rights, demonstrates the existence of a plurality of models in these matters. Through jurisprudential criteria that give excessive scope to freedom of religion, through a uniform and homogenized interpretation of the Quebec and Canadian Charters, through its refusal to recognize a significant margin of appreciation for the member states of the federation [...] the Supreme Court has developed solutions that—although they seem to be appropriate for the rest of Canada—suffer from a real problem of social acceptance in Quebec. Legislative intervention is therefore necessary to address the shortcomings of Canadian jurisprudence. Bill 21, with its balanced and moderate approach, is a politically reasonable and legitimate response to the shortcomings of the case law. (Taillon 2019)

For Taillon, legislating on secularism, and in this particular case passing Bill 21, is the only response to this “*manque de souplesse*” (lack of flexibility) at the heart of Canadian jurisprudence. Like the margin of appreciation, the bill thus allows Quebec to arbitrate the boundaries of its own model of religious governance.

In a similar vein, a number of submissions in support of the bill also argue that it protects against the “harmonization” of the Quebec Charter of Rights with the federal one. The Quebec Charter is described in these interventions as essential to maintain the distinct identity of Quebec (see e.g., *Ligue d’Action nationale* 2019; Pelchat 2019; Taillon 2019). By including the inscription of the principle of *laïcité*

³¹ Patrick Taillon is professor of Law at the Université Laval.

in the Quebec Charter, Bill 21 specifies Quebec's desired model of religious governance as differing from the Canadian Charter. It is also a way to ensure that Quebec's understanding of religious freedom is protected and is distinct from the religious freedom promoted by the SCC. As the sociologist Guy Rocher (2019) and others note in their submissions, courts and the SCC in particular tend to privilege a liberal and individualistic understanding of religious freedom, favouring freedom of religion over freedom of conscience. In contrast, Quebec society is said to approach religious freedom as a right that needs to enable (and not restrain) a collective equality, depicted as inherent to the Quebec nation. This right to protect freedom of conscience is extended to those who do not want to face the pressures of religion (see also Pelchat 2019). Put differently, these authors seek to protect the rights of the nonreligious under freedom of conscience.

Overall, these submissions reproduce the idea that Quebec is distinct from the RoC. Ironically, this differentiation, in our opinion, shows some of the weaknesses of the argument in favour of a "margin of appreciation." Indeed, while Taillon argues for the importance of using the margin-of-appreciation concept because Canada is a federation, he also notes that all the other provinces, aside from Quebec, seem to agree with the decisions of the SCC and its understanding of religious freedom, which do not work for Quebec. Taillon's observation is in itself worth highlighting, as, in theory, the concept of the margin of appreciation at the European Court of Human Rights ought to be used when there is no consensus at the European level. On the contrary, if there is a consensus among a majority of states except for one, then this principle becomes obsolete (Barras 2012, note 7). Given the consensus in the RoC to which Taillon refers, the margin of appreciation may not be applicable to Quebec. This clarification is notwithstanding that the margin of appreciation has been used at the European level to account for differences between the political tradition and norms of countries (Mégret 2020, 241),³² but not to account for differences between regions in the same country.³³

Another argument that is repeatedly employed to shape the importance of relying on the Quebec legislature rather than the SCC to arbitrate questions around religious governance is that courts are "elitist" institutions. The legislature, in contrast, is characterized as more representative of Quebec citizens.³⁴ In other words, the SCC's decisions are not representative of the collective will of Quebecers. Again, Patrick Taillon develops this point against "elitism" and for the Quebec legislature's "moderate intervention" in his submission

³² Mégret explains some of the difficulties in applying a margin of appreciation to Bill 21 in Quebec (2020, 251).

³³ Mégret explains this point elegantly: "It [applying the margin of appreciation to Quebec] also assumes that one takes Quebec as the framework of choice, whereas international human rights law would clearly command that one evaluate the policy with reference to Canada and Canadian norms" (2020, 251).

³⁴ This argument has to be tempered especially if we consider the importance of the Quebec Charter of Human Rights and Freedoms and its jurisprudence (e.g., Barreau du Québec and Tribunal des Droits de la Personne 2005).

(Taillon 2019). Similarly, in their submission, the Bloc Québécois³⁵ characterize the province's reliance on the legislature as a specificity of the Quebec nation that enables social cohesion and autonomy, encourages societal debates, and thus opposes the judicialization commonly associated with the federal government: "The Quebec nation has always preferred to address major social issues (language, abortion, same-sex unions, dying with dignity, secularism, etc.) through legislation, whereas the federal government relies on courts to make decisions under the Canadian Charter of Rights and Freedoms" (Bloc Québécois 2019).

In the Bloc Québécois' narrative in support of the bill, Quebec is constructed in opposition to the federal government. While the RoC does not contest the federal government's reliance on the SCC to arbitrate decisions related to the place of religion in society, Quebec, it says, takes a different and less elitist approach. The Bloc defines *laïcité* as a "major social issue" for the province, which is why through their elected officials at the National Assembly, Quebecers should be the ones responsible for delimiting the shape governance should take: "Quebec knows what is good for Quebec [...] As we count on the National Assembly to move Quebec forward [...] A modern Quebec, open to the world, [is] welcoming and resolutely secular" (Bloc Québécois 2019). In this vein, ensuring that the National Assembly has the power to self-determine the boundaries of *laïcité* guarantees that the Quebec nation will emancipate itself from the elitist juridical approach promoted by the SCC, and relatedly, the interpretation of religious freedom that is favoured elsewhere in Canada.

Denouncing a reasonable accommodation/multicultural approach in favour of Quebec's model of collective rights

A third related approach by which the briefs engage the RoC relates to pejorative characterizations of the 1988 federal *Multiculturalism Act*. In our analysis of this third trend, we focus on, first, how multiculturalism is understood to privilege religiously framed rights to the detriment of gender-based rights.³⁶ In addition to better protecting women's rights, a "nation du Québec" approach, as presented in the legal text of Bill 21, fosters a greater *vivre ensemble* than one focused on valuing different religio-cultural tenets, as the federal multicultural approach is depicted. Second, several briefs in support of the bill specifically attack SCC decisions as fostering an "accommodation" approach toward religion that counters the collective interests of Quebecers.

This multiculturalist vision of managing diversity, according to these thirty-five writers, ultimately serves a vision that counters a Quebecois political project

³⁵ The Bloc Québécois is a federal political party that was founded in 1991 and self-defines as pro-independence and social-democratic.

³⁶ A submission by *Pour les droits des femmes du Québec* characterizes multiculturalism somewhat differently. They emphasize multifaith groups, but also, more dangerously, communitarianism, or the segregation of ethnically—and/or racially—distinguished groups. Ultimately, multiculturalism is depicted as a federalist project that counters the rights and needs of Quebecers.

of distinctiveness. As the AQNAL³⁷ explains in its brief, multiculturalism in Canada is “based on exoticism” and negatively silos people “as individuals of small cultural, ethnic, racialized communities” (2019). For this group, multiculturalism is “the love child of a staid federalism” (AQNAL 2019). Various briefs underline how Canadian multiculturalism, because of its individual rights approach, allows religious practices associated with Islam to impose themselves on society and infringe upon national values. The MNQ adds in its submission that this Canadian multiculturalism has become so radicalized in recent years that it is “leading to a sacralization of diversity” so that the niqab is celebrated “as both a symbol of female empowerment and an affirmation of diversity” (MNQ 2019). This point is, arguably, disputable because even in the SCC, the niqab has not received unequivocal protection (Bhabha 2014; Bakht 2015, 2020; see also *R v NS*, 2012, Supreme Court of Canada, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/12779/index.do>).

The MNQ argues that the multicultural model means that Canada does not have a collective founding principle. The *Ligue d'action nationale* goes further in its submission to imply that Canadians should be embarrassed by multiculturalism as a “distinctive sign” of identity: “It is a paradox that never ceases to amaze [us]: a country [Canada] that boasts of not having a converging culture, of welcoming all identities in a permanent tinkering with piecemeal arrangements, and that brandishes the exercise as a badge of honour” (Ligue d'action nationale 2019).

So too, gender equality is depicted by those in support of Bill 21 as weakened by a deference to religious rights, as promoted by multicultural values.³⁸ In her brief, Christine Pelchat, former head of the CSF, recalled incidents when women’s rights were put in peril because of so-imagined “reasonable” accommodation requests made by religious men. Moreover, drawing on her background as a lawyer, Pelchat explains that in contexts of competing rights (gender vs. religious rights), the prevalence of the accommodation approach meant that gender rights are threatened (see also Nadia El-Mabrouk and Leila Bensalem 2019; PDF-Québec 2019). Recurring examples that highlight this perspective relate to concerns with patriarchal beliefs and signs in Islam. In their brief, secular feminist activists Djemila Benhabib and Louise Mailloux (2019) note how the proposed bill privileges equal gender rights over religious requests and would be the first in North America to sanction religious symbols for those in

³⁷ The *Association québécoise des Nords-Africains pour la laïcité* is an organization that was created in 2013; the promotion of secularism is a central part of its activism.

³⁸ This point about multiculturalism’s deference to religious rights has been criticized by scholars who have noted that gender equality and religion are not self-exclusive categories. Approaching them as such shows a disregard for their complexity and intersectionality. An individual can consider herself to be, at the same time, religious and for gender equality (see Bilge 2010; Benhadjoudja 2017; Bakht 2020; Lépinard 2020; Jahangeer 2022). Gender rights were not invoked a great deal. We note one submission that argued that a climate of religious accommodation renders White male *Québécois de souche* vulnerable. Jean-Claude Bernatchez proposes that federal government initiatives to promote visible minorities has an impact on “the social group [that] is temporarily sidelined for hiring purposes, especially in previously male-dominated sectors such as the police[:] young men of so-called Quebec origin” (2019). In other words, Bill 21 can promote religious accommodations that disenfranchise White, nonpractising Quebec-born men.

positions of authority: “This is a first in North America. France, Belgium, Switzerland and Germany have already adopted this practice [the prohibition of ‘the wearing of religious symbols such as face masks by state officials in positions of coercive and moral authority’] with the approval of the European Court of Human Rights.”

Benhabib and Mailloux’s tone suggests that Quebec should follow modern Western European states to enact a secular law that protects gender-based equality. The AQNAL took a similar position in their submission, seeing religious accommodation requests in Islam as particularly fracturing to public institutions. The RPL provides historical examples related to the Catholic clergy’s misogyny to make a similar point.

In contrast to what we expected based on previous legal expressions of secularism in Quebec and the recommendations proposed in the 2008 Bouchard-Taylor Report, the notion of interculturalism is mentioned by only a handful of the thirty-five briefs that overtly supported the bill.³⁹ One brief writer, Christine Pelchat, also noted this shift. Pelchat described the paucity of support for interculturalism as a safeguard against multiculturalism as “shocking.” For these writers the *laïcité* model has become an unequivocal unifying force for social cohesion and a French Republican-echoed *vivre ensemble* (see also PDF-Québec 2019).⁴⁰ As the MNQ noted in this passage, secularism has become the best way to unite Quebecers in a shared social project:

The people of Quebec do not see secularism as a threat to freedoms like freedom of religion or freedom of conscience, but rather as a political and cultural framework that protects and reinforces them. Secularism is not the enemy of these freedoms but their best safeguard. It creates the institutional conditions necessary to allow the cohabitation and even the cooperation within a city of diverse identities and convictions. (MNQ 2019)

The danger of ignoring this unifying project, adds the MNQ, is a “return to religion,” which would counteract the work since the Quiet Revolution to modernize and democratize the province. Moreover, they add, *laïcité* could be the ideal that unites sovereigntists and federalists in the province: “a preferred concept to create common ground” (MNQ 2019).

In the second place, writers in favour of the bill see the SCC’s citation of the Canadian Charter and emphasis on individual-based “reasonable accommodation” as directly countering the Quebec identarian project. The *Juristes pour la laïcité de l’État* present the province’s unique historical and sociological context, which they see as rooted in the province’s differing civil law tradition (2019, 14). In this way, the proposed bill simply follows a longer

³⁹ In contrast to other Quebec debates and legal projects on religion in the public sphere in the 2000s, including the Bouchard-Taylor Commission Report (2008), in Bill 21 the notion of “interculturalism” is mentioned as a distinctive and ideal model of governing diversity less frequently. Lampron (2021) explains how Bill 21 in itself prevents the legal conditions for the possible application of interculturalism in Quebec.

⁴⁰ For more on this idea of a *vivre ensemble* (or living well together), see Beaman (2016).

tradition. In his submission, Patrick Taillon charts a trend in SCC judgments, which he says, particularly beginning with the 2004 *Amselem* judgment, were the root cause of the accommodation debates in Quebec. Added to this situation is that the “uniform and neutralizing” Quebec Charter is subsumed under the Canadian one. The group *Rassemblement pour la laïcité* and the *Bloc Québécois* make a similar point in their submission. So too Taillon warns that if “there is no truly autonomous Quebec system for the protection of rights and freedoms” (2019), the bill may fail because too many concessions were made, like the grandfather clause for teachers, which weakened its coherency. For this reason, the notwithstanding clause—again, employed in the passing of the *Act Respecting the Laicity of the State* and the *Charter of the French Language*—remains an important guarantor of equality, particularly given the federal hierarchy with the SCC, which places the province of Quebec in a weaker position.

The final critique of the SCC decisions is their emphasis on individualism, which Guy Durand, for one, notes directly rejects collective group rights, like the “living together, public order or the common good, which includes the country’s history and identity, what some call collective rights” (Durand 2019; see also *Bloc Québécois* 2019). In his brief, Gérard Montpetit argues for the importance of assuring a Quebec francophone culture, necessary to protect against the “rapport de force” experienced by Quebecers in Canada. Durand contrasts an anglophone-centred, multicultural, and individual focus with seventeenth-century French colonial leader Samuel de Champlain’s dream of a “terre francophone” which was “en union avec les Premières Nations.” The inference is that the latter model would allow for greater inclusion of Indigenous peoples. Durand’s unitary nod to Indigenous peoples is a point we take up in our conclusion.

Conclusion

In this article, we have shown how those who submitted briefs in favour of Bill 21 framed *laïcité* as a tool of governmentality not only towards a religious Other (Islam), but also towards a complex political Canadian Other. This framing marks a contrast with previous legal bills,⁴¹ whose briefs focused more exclusively on Islamic religious signs, with lesser mention of Catholicism’s historical presence (Mahrouse 2008; Selby 2014; Barras 2016). In submissions in favour of Bill 21, the religious Other (Islam) appears as one among many Others. In fact, this religious Other is mobilized and entangled in the articulation of another, perhaps more central, Other: the Canadian liberal-multicultural-anglophone Other. According to the contributors to these discussions, it is precisely the Canadian liberal-multicultural way of managing differences, privileged in the RoC, that provides a fertile ground for this religious (and dangerous) Other to prevail. Thus, documenting this entanglement of various Others challenges overarching assumptions that the sole goal of Law 21 (the *Act Respecting the Laicity of the State*) is to regulate religiosity—it is as much about emancipating the Quebec nation from

⁴¹ See above, note 8.

the RoC. More generally, these insights show the need for greater theorization in secularism studies in the North Atlantic world to broaden its conceptualization in order to include multiple Others. It is in fact perhaps more productive to understand secularism as enabling complex logics of governmentality that vary in function of political contexts, rather than only as a framework of religious governance.

We make this argument by drawing on three recurring themes woven through the public submissions in favour of the bill. The first common argument draws a parallel between the protection of secularism with Law 21 and the protection of French language in the *Charter of the French Language* more than forty years earlier, where both are identified as central to ensuring Quebec's identity to flourish. The second theme opposes the Canadian judiciary and the Quebec legislative sphere; here, the RoC is described as relying upon the judiciary, and particularly the SCC, to manage questions of religious diversity whereas Quebec relies on the legislative sphere. Finally, the third common argument constructs the Canadian state as excessively protecting individual rights via mechanisms such as those of reasonable accommodation, multiculturalism, and the Canadian Charter of Rights, in contrast to the province of Quebec's "collective rights."

It is worth noting that this national concern and focus on the political future of Quebec are also mobilized by opponents of the bill. The fifty-five submissions filed against the bill argue that it is at odds with Quebec's history of secularism. Indeed, opponents understand the bill as violating the religious neutrality of the state because it discriminates based on religious practice and visibility. Thus, for the opponents of the project, the inclusion of secularism in the Quebec *Charter of Human Rights and Freedoms* will negatively impact the Quebec system of rights and freedoms. In particular, the project could "distort" secularism and unjustifiably undermine the rights and freedoms that guarantee religion and equality in the Quebec and Canadian Charters (see the 2019 submissions of the *Commission des droits de la personne et des droits de la jeunesse*, the *Ligue des droits et libertés*, and Pierre Bosset). Finally, for opponents, the then-proposed Bill 21 discriminates against religious minorities and particularly Muslim women in hiring and job retention, which is counter to Quebec's identity and political project (see the 2019 submissions of the organization *Communication pour l'Ouverture et le Rapprochement interculturel* and the *Ligue des droits et libertés*).

Finally, we argue that the central place given to the dichotomy between secular Quebec and multicultural Canada in discussions around Law 21 carries serious consequences for how we continue to imagine Canada and Quebec. Indeed, for us, this framing contributes to silencing and making invisible systemic racism and ongoing colonial logics, both persistent issues throughout Canada, including in Quebec (Mahrouse 2010; Benhadjoudja 2022). By focusing the Bill 21 debates on the need for Quebec to emancipate itself from the Canadian model, the discourses in favour of Bill 21 disguise the commonalities between Quebec and the RoC on managing difference. Apart from one mention of the Patriotes and of Champlain, writers of the briefs begin the Quebec nation's history with the Quiet Revolution, with a punctuated mention of the *Charter of the French Language* in the subsequent decade; longer church and colonial histories remain glaringly absent. With their

ahistoricity, these submissions mask a common colonial history and present, and, relatedly, they continue to centre gender equality while ignoring questions of race and White supremacy. In other words, in centring a framework focused on mapping differences between colonial powers, these briefs contribute to masking these shared issues. These logics are long-standing in the Canadian federal project, including in Quebec. Canada has been built, over time, on a narrative that denies racism and colonialism (Thobani 2007; Thompson 2008; Maynard 2017). This silencing involves different strategies, which have included the reproduction of this denial in history textbooks, in school and university teaching, and in public debates. Thus, like the rest of the Canadian nation-state, Quebec brief writers also reproduce these national narratives by making multiple references to myths of racial innocence and of the two founding nations, namely Canada and Quebec, therein reinforcing racial and colonial hierarchies by silencing the issues surrounding the life and place of Indigenous peoples (see Mahrouse 2010; Schaeffli and Godlewska 2014; Benhadjoudja 2022; Taher 2021). More specifically, the myth of racial innocence in Quebec nurtures the idea that the province cannot think of itself as reproducing forms of racial and colonial oppression (Austin 2010; Leroux 2010; Scott 2016). In so doing, focusing on a secular/multicultural divide enables a continuing ignorance of Quebec and Canada's histories of colonialism, and the slavery of the Indigenous and Black communities (Cooper 2006; Austin 2010; Maynard 2017). While these briefs were written in support of a bill that later became a law, they do notable work in casting the RoC pejoratively and in further absolving the governmentality of secularism from addressing questions of race and Indigeneity.

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