



WORLD SIKH ORGANIZATION OF CANADA

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World Sikh Organization of Canada Brief on Bill 21

An Act respecting the laicity of the State

Before the Committee on Institutions
National Assembly of Quebec

SUMMARY OF BRIEF

While Bill 21 purports to protect and defend the values of laicity and gender equality, in effect it fails to do either and will result in a serious affront to human rights and minority communities in Quebec. Specifically, Bill 21 will have a deleterious effect on Sikh Quebecers, many of whom wear the turban or cover their heads as a tenet of their faith.

The wearing of the turban is an integral component of the Sikh identity and a sacred article of faith. The turban not only serves a spiritual function, as noted above (ie. to reflect the Sikh belief in gender equality, humility, and the supremacy of God), but also serves the practical function of covering, and keeping in place the long, uncut hair of a Sikh. The turban is mandatory and cannot be removed. The removal of the turban is tantamount to a strip search.

The WSO respectfully submits that Bill 21 is both morally and legally offensive, and should not be passed. To do so would set a dangerous precedent which would significantly erode the rights of women, and minority religious communities living in Quebec. Bill 21 heightens and further substantiates the existing crisis of perception with respect to religion in Quebec society and perpetrates a tyranny on those for whom religion is a way of life.

Any attempt at forcing government employees to remove their religious symbols or articles of goes against the very foundation of Quebec values as enshrined in the Quebec *Charter of Human Rights and Freedoms* and the fabric of our shared culture.

From a legal perspective, Bill 21 is highly problematic. Despite the threat of insulating the Bill from the Canadian *Charter of Rights and Freedoms* with the invocation of the notwithstanding clause (S.33), and by amending the Quebec *Charter of Human Rights and Freedoms*, the law is imprecise, vague and ultimately unenforceable.

Bill 21 offends the concept of religious neutrality or secularism in the public sector, and does nothing to advance the cause of gender equality. Rather, it will result in a divided society that marginalizes certain visible religious minorities and creates an atmosphere of intolerance and inequity.

The WSO urges the Members of the National Assembly to vote against the adoption of Bill 21 or any other comparable legislation.

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May 13, 2019

BRIEF OF PRESENTATION ON BILL 21
MADE BY THE WORLD SIKH ORGANIZATION OF CANADA
BEFORE THE COMMITTEE ON INSTITUTIONS,
NATIONAL ASSEMBLY OF QUEBEC

The World Sikh Organization of Canada (“WSO”) appreciates this opportunity to make submissions on Bill 21 which, if passed, will have a devastating impact on freedom of religion in Quebec and a disproportionate effect on Quebec’s religious minorities.

While Bill 21 purports to protect and defend the values of laicity and gender equality, in effect it fails to do either and will result in a serious affront to human rights in Quebec. By requiring government employees to remove what are deemed “religious symbols”, Bill 21 would have a deleterious effect on Sikh Quebecers, many of whom wear the turban or cover their heads as a tenet of their faith.

I. BACKGROUND: THE WORLD SIKH ORGANIZATION OF CANADA

The World Sikh Organization of Canada (WSO) was registered with the Government of Canada on November 16, 1984, as a non-profit organization. The WSO has a mandate to promote and protect the interests of Canadian Sikhs as well as to promote and advocate for the protection of human rights for all individuals.

The Sikh faith is a major world religion, and ranks among the top five world religions in number of adherents. There are approximately 25 million Sikhs worldwide, with 19 million residing in India, and the balance spread out around the world. Approximately 600,000 Sikhs currently reside in Canada. 10,000 Sikhs reside in Québec, 50,000 in Alberta, 200,000 in Ontario, 300,000 in British Columbia, and the balance spread throughout the other provinces and territories.

The WSO has been actively involved in addressing major social issues in Canada since 1984. As part of this involvement, and with the view to fostering better understanding and accommodation of all peoples, the WSO has: prepared submissions to governmental and non-governmental agencies and organizations; presented at and hosted conferences with and for community groups, police boards, politicians, inter-faith organizations, schools, universities, and various other non-profit entities; and conducted training and educational workshops in communities throughout Canada.

In keeping with its universal and secular mandate, the WSO has intervened in issues and cases affecting non-Sikh groups such as the Jewish, Catholic and Muslim communities of Quebec and elsewhere, as well as promoting the advancement of rights for gay and lesbian communities, and other marginalized groups across Canada. The WSO has appeared before the Supreme Court of Canada on five separate occasions as an intervener in cases impacting freedom of religion.

II. THE SIKH FAITH & THE TURBAN

The Sikh faith is a monotheistic religion founded in 1469, by Guru Nanak, the first of 10 Sikh Gurus (“spiritual teachers”). The word “Sikh” means student, and Sikhs are students or disciples of the Gurus, but view the Creator as their ultimate teacher. The Sikh faith holds as its basic tenets, a belief in One God and the equality of all persons, regardless of gender, class, race, or faith.

After the inception of the religion by Guru Nanak, the religion went through a period of evolution over 200 years, guided by nine further Gurus, culminating in the creation of a distinctively separate group of followers who were outwardly identifiable by their articles of faith.

The Sikh faith teaches the fundamental equality of all humans, regardless of religion, gender, culture or any other difference. Sikh men and women are considered complete equals in the faith and share the same rights and responsibilities.

The three golden rules of the Sikh faith are to remember God at all times, make a living through honest means, and to share that living and one's resources with others. Thus, the Sikh faith is a way of life, and a Sikh's beliefs are intended to enhance and guide a Sikh's existence.

It is important that a Sikh embodies the values of the Sikh faith, thus making an external manifestation of the beliefs essential. The Sikh faith is intrinsically life-affirming, with the ideal of a life of work, worship and charity. The Sikh identity is a practical and visible means of identifying an individual who has embarked on this path. Thus, the articles of faith worn by a Sikh are intrinsic to the identity of the Sikh.

A. Significance of the Turban

To understand the spiritual significance of the turban, one must understand the history and philosophy of the Sikhs.

Sikhs are vehemently opposed to the differential treatment of people for reasons such as gender, race, or religion, which is reflected in Sikh teachings, philosophies, and practices. They believe in the abolishment of class distinctions (like a caste system of social hierarchy) and denounce the persecution of individuals on the basis of distinctions like race, creed, gender, ethnicity, belief, tradition or lifestyle. Sikh Scripture remains universally unique in that it demonstrates many of the principles of equality that Sikhs believe in. Women are given

a significant role in Sikh scriptures, which are in many places written in the feminine voice and reflect a belief in a God who is referred to as both mother and father.

Guru Nanak (1469-1539) inspired people to feel the presence of God through hard work, family, community service and defence of the downtrodden. A cornerstone of his philosophy was the emancipation of women, who faced significant discrimination in 16th century India (and elsewhere throughout the eastern and western world).

Both Sikh men and women were enjoined to cover their heads as a mark of respect and humility before God and in doing so the Sikh faith reinforced the fundamental equality of both men and women. Both Sikh men and women can wear the turban.

From the time of Guru Nanak, the turban became synonymous with the outward identity of a Sikh, and has continued to stand for the Sikh belief in gender equality, humility, and the supremacy of God.

Over the centuries, the Sikh community developed and prospered under the leadership of Guru Nanak's nine successors. This culminated in the creation of the present-day Sikh initiation ceremony by the 10th Guru, Guru Gobind Singh in 1699. The Sikh initiation ceremony, which is still followed today, reinforces the Sikh values of gender, social, and racial equality. Women and men from any economic, social or cultural background can partake in the initiation ceremony. Leadership positions within Sikh places of worship are equally open to men and women. An initiated Sikh woman uses the name Kaur, and the male uses the name Singh, thereby maintaining their separate social and legal identities.

B. Wearing of the Turban

For philosophical reasons outlined above, and the additional practical reason of covering the unshorn hair and keeping it in, the wearing of the turban is an integral component of the Sikh

identity and a sacred article of faith.

For practicing Sikhs, the turban is essential to their identity, and removing it is inconceivable. The turban not only serves a spiritual function, as noted above (ie. to reflect the Sikh belief in gender equality, humility, and the supremacy of God), but also serves the practical function of covering, and keeping in place the long, uncut hair of a Sikh.

The turban is not a religious symbol but an article of faith. While items like a crucifix or other jewelry are optional, the turban is mandatory and cannot be removed. Symbols are simply representations of the real object. The turban has a religious significance but it is much more than just a symbol. The identity of the Sikh is reflected in the wearing of the turban.

The turban is not like a hat in that it cannot simply be put on and taken off. It is carefully tied every day. It is worn at all times indoors and outdoors by observant Sikhs. There are various styles and sizes of turban. Younger children often wear a *patka* which is a square piece of cloth tied on the head. At home or for sleep, a smaller turban or *keski* is worn in place of the larger turban. Depending on personal preference, wearers choose different colours or fabrics for the turban.

It is inconceivable that Sikhs who keep their unshorn hair would not cover it with a turban. As the turban is such an integral part of the Sikh identity, being forced to remain without it is to ask Sikhs to do something which is completely against their beliefs. Sikhs believe that God is everywhere, and as a sign of respect for God, and a reflection of their humility and belief in equality between men and women, Sikhs wear the turban everywhere.

Just as an individual would be extremely embarrassed in having to appear in a state of undress, a Sikh would feel a similar level of humiliation in being forced to remove the turban. Bodies across Canada such as police forces and the Canadian Border Security Agency hold the removal of the turban to be tantamount to a strip search.

III. CONCERNS REGARDING BILL 21

The WSO respectfully submits that Bill 21 is both morally and legally offensive, and should not be passed. To do so would set a dangerous precedent which would significantly erode the rights of women, and minority religious communities living in Quebec.

A. Bill 21 Offends Quebec Values of Religions Freedom and Mutual Respect

The people of Quebec have long been leaders in the area of human rights advancements. The *Quebec Charter of Human Rights and Freedoms* (“Quebec Charter”) was passed in 1976, years before the *Canadian Charter of Rights and Freedoms* came into being. It is a broad-based social document reflecting the egalitarian views of the Quebec people. The Sikh community shares many of the values and beliefs enshrined in the Quebec Charter and indeed, understands what it means to be a leader in human rights. The Sikh scriptures written several hundred years ago were equally ahead of their time.

Despite the very open and broad-minded values reflected in the *Quebec Charter*, Quebec society has struggled with what it means to be equal in a culturally and socially diverse society. Nonetheless, the Bouchard-Taylor Report noted that the debate around religious accommodation is in fact a “crisis of perception” rather than an actual dilemma¹.

A healthy and open debate is necessary in any free-thinking society. However, the increasingly intolerant attitude towards religious accommodation and cultural differences is highly disturbing. Sadly, in our respectful view, Bill 21 heightens and further substantiates the existing crisis of perception with respect to religion in Quebec society.

While there may be some Quebecois who are uncomfortable with dealing with people that wear turbans, yarmulkes or hijabs, their discomfort and unsubstantiated fears need to be allayed, not validated. It is only when we interact regularly with the “other” that they no longer become objects of our fear. Diversity in the workplace and in society should be encouraged, as it helps foster a better understanding of people and creates a productive and

¹ Bouchard, G., & Taylor, C. (2008). *Building the future: A time for reconciliation*. Québec: Commission de consultationsur les pratiques d’accommodement reliées aux différences culturelles p. 18

engaged workforce and citizenry.

Governments have an important role to play in protecting our shared values of tolerance and diversity. They have the responsibility to step in and protect the minority from the tyranny of the majority. Yet, Bill 21 does the opposite and instead, perpetrates a tyranny on those for whom religion is a way of life.

B. Bill 21 is Legally Unenforceable.

From a legal perspective, Bill 21 is highly problematic. It violates freedom of religion as enshrined in both the current Quebec *Charter of Human Rights and Freedoms*, and the Canadian *Charter of Rights and Freedoms*. While the Quebec Government may wish to isolate this Bill from scrutiny by amending the Quebec *Charter of Human Rights and Freedoms* and by invoking the Canadian *Charter of Rights*' S. 33 notwithstanding clause, the Bill remains legally impaired.

Bill 21 does not define what a religious symbol is nor does it make any reference to who will make such a determination. Many objects worn every day by individuals may be seen as religious, cultural or simply personal expression/fashion. For example, a Sikh may wear a turban for the purpose of keeping the long hair in place and tidy. This is a practical function of the turban and may be independent of any religious function. Many individuals across the world wear turbans as a part of their cultural attire. Furthermore, fashion turbans or headwraps are worn across cultures by women of a variety of faiths.

Other symbols which may be religious or not include the 'bindi' worn by women across South Asia. The bindi is a mark on the forehead that may be worn as a part of Hindu religious observance or simply as a fashion accessory by women of various traditions, cultures and faiths.

Other items of clothing such as a wedding ring, a neck tie or pendant may be seen from various lenses and could potentially be deemed "religious symbols".

It is entirely unclear who will be the arbiter of what is a religious symbol and what is not. We fear the Bill 21 may result in the targeting of racialized minorities in Quebec. Would articles of clothing, jewelry, etc. worn by racialized Quebecers be seen as religious symbols that are forbidden whereas the same items worn by a Caucasian would not be perceived in the same way? There are no clear answers to this question.

Furthermore, it is unclear what penalty will be imposed for those that wear what are deemed religious symbols. Who will police and enforce this ban? Bill 21 is silent to these key issues and is therefore, as a whole, legally unenforceable and impaired as legislation.

C. Bill 21 Misunderstands Equality and the Purpose of Laicity

As per the text of Bill 21, laicity of the State is based on the principles of separation of State and religions; the religious neutrality of the state, the equality of all citizens and freedom of conscience and freedom of religion. These are all important values; however, the ultimate purpose of these values is to ensure that the state does not favour any one religion over another. Bill 21 does the opposite. By its operation and design, Bill 21 favours any religion where there are no outward manifestations of the faith. For a practicing Sikh, Muslim, and Jew, Bill 21 represents an uncompromising affront to their personal and spiritual integrity.

The goal of a secular and religiously neutral state is to treat citizens fairly and to provide fair and equal access and services to all citizens, without favouring any one religion over another.

There has been no evidence presented to establish that the neutrality of the state is at present being compromised by employees wearing religious attire or symbols. No evidence, empirical or otherwise, has been presented to suggest that employees wearing religious symbols or attire are not able to perform their jobs in a religiously neutral or secular manner or that any person has experienced a reasonable apprehension of bias in dealing with such employees.

Further, there is nothing to establish that where an individual is forced to remove a religious symbol, they will automatically be rendered religiously neutral and impartial in their behavior

in a way that is not possible while wearing the symbol.

The separation of the State and religion is not accomplished by requiring citizens to divest themselves of articles of clothing, but is premised in fundamental equality and equity in the way the State interacts with citizens. The State does not become neutral by targeting particular faiths and communities; doing so in fact frustrates that objective. Allowing all citizens, regardless of their faith, to have the same opportunities is the true manifestation of equality.

Sadly, Bill 21 proposes a regime which creates a second tier of citizenship for individuals who practice certain faiths or wear what are deemed “religious symbols”. Doing so ultimately frustrates freedom of religion in a fundamental way. Overall, Bill 21 defeats the very stated objectives and values it purports to uphold.

D. Bill 21 Will Not Advance Gender Equality

Bill 21 is premised on the belief that restricting religious head coverings will play an important role in advancing gender equality. Gender equality and freedom inherently necessitate choice. Women must have the right to dress as they please. State interference in women’s ability to dress as they choose does not promote gender equality. It is paternalistic and limits women’s autonomy and freedom. Women who currently wear these head coverings will be deprived of their employment if Bill 21 is passed. Rather than promote women’s empowerment, this measure will result in a state of inequality and disadvantage for these women.

Concerns about head coverings for Muslim women such as the hijab or the niqab are often articulated in terms of women’s rights. Head coverings worn by Muslim women are seen by many as a symbol of oppression and subjugation of women. In contrast, when asked, many Muslim women who wear the hijab or niqab disagree and consider it an empowering expression of their own religious beliefs.

The Sikh faith is completely egalitarian and ensures equal rights for both Sikh men and women. Both Sikh men and women wear the articles of the faith and have equal rights and

responsibilities in the Sikh religion.

By disqualifying these women from employment in fields such as law, education and other positions, Bill 21 actually causes harm and perpetuates inequity and isolation.

Bill 21's prohibition on the wearing of the Sikh turban is in fact antithetical to the promotion of gender equality, as turbans are worn by both Sikh men and women and represent the Sikh belief in equality of men and women. Ironically, the Sikh turban, which represents a belief in gender equality, would be forcibly removed in the name of gender equality. A more bizarre scenario is difficult to imagine.

E. Bill 21 Will Result in Exclusion and Marginalization

Arguments have been made that restricting religious symbols and attire in the public sector will result in greater social cohesion and integration. Such an outcome is highly unlikely as attempts by the state to impose conformity are in violation of liberal democratic values and have consistently resulted in fragmented societies which marginalize minorities.

Forcing individuals to abandon certain cultural or religious practices creates an atmosphere of intolerance and inequity. Quebeckers who wear religious symbols and attire would be marginalized by Bill 21 and a message will be sent to Quebec society that those who wear them are foreign and separate.

Attempts at restricting religious symbols in France have not resulted in greater social cohesion and have in fact contributed to increased ghettoization and even violent riots.

Quebec has seen an alarming rise in xenophobia and Islamophobia. We fear that the passing of Bill 21 will send a message that those wearing "religious symbols" are lesser citizens and because they do not accept Quebec's values, are not welcome in Quebec.

IV. CONCLUSION

The WSO is deeply concerned about the implications of Bill 21. Bill 21 offends the concept of religious neutrality or laicity and does nothing to advance the cause of gender equality. Rather, it will result in a divided society that marginalizes certain visible religious minorities.

Freedom of religion and tolerance of differences are Quebec values enshrined in the Quebec *Charter of Human Rights and Values*. Bill 21 is a radical departure from these values, and will have a severe deleterious effect on Quebec society as a whole. The WSO urges the Members of the National Assembly to re-affirm the values of equality and respect for all, irrespective of religious belief, and in so doing, to vote against the adoption of Bill 21 or any other comparable legislation.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

May 13, 2019

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