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A Provincial Proposal That Affects All Canadians

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Policy commented on: Proposed Quebec Charter of Values

As evidenced by the entries on our Faculty ABlawg, the recent announcement of the proposed “charter” of “values” in Quebec has led to a strong response across Canada. While the proposal itself may be limited to Quebec, it is clear that the impact is wider than that.

Professor Jennifer Koshan [described](#) the experience of teaching the famous, *Reference re Secession of Quebec*, [1998] 2 SCR 217, the day after the charter proposal was announced. I also teach Constitutional Law at the Faculty, and I found that her blog, in turn, provided an excellent teaching resource for discussion in the following class session. As this all occurred during the second week of law school for our first-year students, it was a powerful introduction, both to the ever-changing nature of Constitutional Law, and to the inconsistencies that can emerge under our constitutional system.

Professor Alice Woolley has added [her commentary](#) on the ethical implications of the proposal, which adds an innovative dimension to the discourse around this subject. As she points out, this proposal has repercussions well beyond the normative legal issues that have been discussed in much of the public discourse, and she adds an important layer to an interesting debate.

As I read all of the commentary about the proposal, I am reminded of my own personal experiences in Quebec.

I arrived in Canada about ten years ago as a new immigrant from the United States. I first lived in Montreal for several years while I completed my graduate studies in law at McGill University. I will never forget the warmth of the welcome that I encountered there. People were eager to talk to me about why I was moving to Quebec, and to offer me assistance and encouragement with learning French. I was frequently reassured that my American accent was appreciated, even when I spoke French, because Quebec was a province that embraced diversity and welcomed new immigrants, so accents were common. When I decided to formally immigrate to Canada, I did so through Quebec’s distinct immigration system. While I no longer live there, Quebec is important to me as my first Canadian home, and I remain grateful for the warmth with which I was embraced.

It is painful to contrast those memories with these most recent developments. Yet, even in the face of a governmental proposal that is so egregiously discriminatory, I see evidence of the inclusiveness that so stood out for me. Many have discussed the constitutional implications of this proposal, which touch on *Charter* protections such as freedom of religion, freedom of expression, and the prohibition on discrimination. The proposal raises issues on many other

levels as well. I have been fascinated to see the range of expression in opposition to this charter, especially in light of the charter's express intent to limit certain forms of expression.

Political Discourse: The Fight for the Public Image of Quebec

Many of my friends in Quebec have expressed outrage, not just about the proposal itself, but about the impression that this proposal gives about Quebec. Like me, those friends believe the proposal to be antithetical to the true underlying cultural values of Quebec, much less of Canada as a whole.

This being the Internet age, a battle of sorts to control the public discourse about Quebec's image has begun. The PQ itself engaged in image-based discourse in announcing its proposal, using an illustration with the tagline "*Un État Neutre Au Service de Tous*," (loosely translated "A secular state in service of all") with accompanying images on the left of workers with no religious garb or very small items – deemed permissible – and an image on the right of workers wearing clear religious symbols, including a large cross, a Muslim hijab, a Sikh turban, a Muslim niqab and a Jewish yarmulke – deemed impermissible. Somehow, leaving [a large crucifix on top of Mount Royal](#), or those displayed in public buildings, or Christmas trees, would be permissible, because those symbols were deemed [cultural, or "historical," rather than religious](#).



Image Source, *the [National Post](#)*.

Almost immediately, contradictory discourse opposing the proposal arose. Justin Trudeau, for instance, wrote an op-ed in the *Globe and Mail*, calling on Canadians not to judge Quebec by this proposal, and not to engage in simplistic stereotyping of Quebec based on it. Calling his piece “[I have faith in Quebec. So should you](#),” Trudeau wrote “Like our fellow Canadians elsewhere, Quebecers are open, positive people. We believe in defending each other’s freedoms, not restricting them.” He added:

Resist the temptation to indulge in easy stereotypes and reactive characterizations of Quebec and Quebecers. The PQ government’s plan is divisive, negative and emotional. It is designed to be that way. Quebecers will reject it.

In some ways, political responses to this proposal have crossed party lines and are not limited to Justin Trudeau or the Liberals, with representatives of Stephen Harper’s Conservative Government [immediately announcing](#) that they would present a constitutional challenge to the charter if adopted.

Even among those from whom the PQ might expect political support, there has been some backlash. There is much speculation that the true reason for this proposal is to revive larger discourse surrounding Quebec secession. If that is, indeed, the intention, even that has not played out entirely in that manner. [Maria Mourani](#), a member of the federal Bloc party, was ousted from her caucus after she spoke out against the proposal. The irony is that she is rather well known for the strength of her separatist views, although, in subsequently resigning from the Bloc, she indicated that she was reconsidering those views. Her resignation demonstrated the use of symbols that is undergirding so much of the discourse around this issue, as she wore a visible crucifix in making her announcement.

Individual online responses have also emerged in interesting ways. One, a [blog](#) that purports to be an open letter to Mme. Marois, has been widely circulated. [One Ontario hospital](#) used the proposal as a recruiting tool for healthcare workers, showing a picture of a woman wearing a hijab, and saying “We don’t care what’s on your head. We care what’s in it.”

Parodies of the proposal have also cropped up, showing the use of humour to demonstrate perceived ridiculousness of the proposal. In one, [a little girl is required to remove her snowsuit, because it too closely resembles a burqa](#). The child is also told not to use plus signs because they too closely resemble the Christian cross.

Protest Movements and Free Expression in Universities

One form of response, in the midst of the multi-layered reactions, has been especially poignant for me. According to the PQ announcement, many levels of the public sector are expressly included in the proposal, and among those would be universities – although supposedly universities can opt out. I am especially proud of the swift and unequivocal response to the charter among so many in Quebec universities.

Even before the formal announcement, university professors were speaking out against this proposal, with an excellent example being [this commentary](#) by Professor Shauna van Praagh, a law professor at McGill, which I have included on my course syllabus for a seminar I teach in Advanced Public Law. She wrote:

... by adding this Charter of Quebec Values into the mix, we diminish rather than strengthen our society. We betray our own heritage; we forget our own history; we fail to uphold the values that we say are so crucial to our everyday lives and future. Only misguided rhetoric can establish this proposed Charter as a symbol of what it means to be *vraiment Québécois*.

Professor van Praagh also participated in an [online panel](#) of legal experts discussing the constitutionality of the proposed charter, which also included Professor Kathleen Mahoney, from the University of Calgary. Opinions varied among those on the panel as to the constitutionality of the proposal, with my own opinion among those who felt that it could not withstand constitutional scrutiny.

A more symbolic protest took place across a number of universities in Montreal, beginning on Thursday, September 12th. Professor Catherine Lu, at McGill, and Professor Marie-Joëlle Zahar, at the University of Montreal, [wrote an open letter](#) to their colleagues in Quebec, which concluded with:

We call on all educators and members of the public service to reflect on the fundamentally unjust, incoherent, self-defeating and dangerous nature of the proposed Charter, and to join in a Week of Action, starting on Thursday, September 12th, to express our strongest opposition to its adoption. For one week (and perhaps indefinitely until the Charter is rejected by the National Assembly), we call on all educators to adopt and wear visible religious symbols of their choosing in classes and lectures. [Portions of the letter have been reproduced in the media. Professor Lu has provided the full text of the letter, and I quote from her version].

Many professors wore items that resembled religious symbols in response, particularly on September 12th. For instance, Professor Lu taught a large political science class wearing a head scarf that resembles a hijab. She explained to her class that, while she did not espouse a particular religion, she was wearing a garment resembling a hijab, in part to demonstrate that such attire would be banned in the public sector, even if the person were wearing it for non-religious reasons.

Professor Lu graciously granted ABlawg permission to include a picture of her from that day. As she pointed out, there were many professors at different Quebec universities also participating.



The Montreal Gazette carried [this video interview](#) with a professor at Dawson College, who self-identified as an atheist, who also joined in the protest and wore a head scarf while teaching. She spoke of how what people wear was now being proposed as a basis for discrimination, while, tomorrow, it might be based on languages spoken or content of speech.

Although I oppose this proposal on every level, I believe that it is especially insidious that it purports to include those working in universities. Free expression, free thought, and academic freedom are foundational underpinnings to the role universities play in society, and the decisive nature of this response from within those universities was therefore especially important.

Professor Suzanne Fortier, Principal and Vice-Chancellor at McGill University, made a [statement](#) this week in opposition to the proposal:

The University must remain a place for the free and full exchange of ideas. The proposal to prohibit our professors and staff from wearing visible religious symbols runs contrary to our principles. The wearing of such symbols in no way interferes with the religious and political neutrality of McGill as an institution. All the members of the University community with whom I have spoken on this issue are clearly worried about the proposal, and would like to see it withdrawn.

On Saturday, September 13th, many of my friends, again some of whom work in Quebec universities, but also others who work in various public and private sector positions in Quebec, took part in a large [protest march](#) in Montreal. Thousands of people participated. Since then, the media are reporting a swell in the [public backlash](#) against the proposed charter. It is amazing to watch the impact that free expression can have.

Conclusion

It is difficult to characterize this proposal as anything other than an attempt at divisiveness. It is intriguing, given the express attempt to stifle expression through this proposal, that free expression in opposition has taken so many creative forms. [Public-opinion polls](#) were suggesting, early on, that this proposal had majority support in Quebec, but as the response swells, this dynamic [may be changing as well](#).

I remain hopeful that this low moment in Quebec history will result in a resurgence of the type of inclusiveness that I found so moving when I first arrived in Quebec. I believe that the true measure of culture and values in Quebec is in that inclusiveness, not in the type of obvious divisiveness symbolized by the PQ's proposed charter. While I believe that legal challenges to this charter, if adopted, would succeed, I hope that it will never reach that stage, and that the strong response in opposition will, in the end, stop this proposal from moving forward.

I applaud my colleagues and friends in Quebec who have spoken out so strongly against this charter. I stand in full support of them.

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