

# The essential question raised by Bill 60

BY ROBERT LECKEY, SPECIAL TO THE GAZETTE FEBRUARY 7, 2014



Samira Laouni told the committee studying Bill 60 that the employment situation for Muslims in Quebec since the values charter was proposed. THE CANADIAN PRESS/Jacques Boissinot

**Photograph by:** Jacques Boissinot, THE CANADIAN PRESS

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Public-opinion polls and the Marois government's spate of expensive announcements across the province indicate that we're moving toward an election. With the weak economy attracting remarkably little attention, the election promises to be a referendum on the charter of secularism. It's crucial, then, to identify this referendum election's clear question.

A number of important questions can be set aside on the basis that they don't belong at the heart of an eventual election. Should the Quebec state be secular? Should we affirm and protect the equality of men and women? Is it desirable for immigrants to integrate into society? There's already consensus on these matters.

Does Bill 60 violate the fundamental rights protected by Quebec's Charter of Human Rights and Freedoms and by the Canadian Charter of Rights and Freedoms? This legal question is relevant, but an election will necessarily be fought on the basis of a robustly political question. In any case, the notwithstanding clauses leave our elected leaders room to override fundamental rights if they decide to do so.

This is the key question: Is it just, in Quebec, to fire state employees, otherwise competent and effective, simply because they wear religious symbols?

Admittedly, Bill 60 doesn't spell out its ultimate effects so bluntly. But that question inevitably arises from a close reading of the text. First, the charter sets out its restriction on wearing religious symbols. Then it deems that restriction to be an integral part of the employment conditions of the persons targeted. Lastly, it contemplates the imposition of disciplinary measures in cases of non-compliance.

Let's speak plainly: In an employment context, a repeated failure to comply with obligations forming an integral part of the working conditions eventually leads to dismissal.

Is wearing religious symbols incompatible with government employment, when no other sign or gesture suggests the employee to be partial or disloyal? Is it equivalent to other types of serious breach of the employment contract?

It's irrelevant that some state employees will adapt their conduct in order to comply with an eventual charter of secularism. Others won't, though, and they are the ones who will risk losing their jobs.

To be sure, someone's working conditions can be changed during his or her employment. For example, safety and hygiene practices may often change during the career of a state employee such as a nurse. Stubborn refusal to comply with such new requirements might lead to dismissal.

To what extent can we apply that workplace reality to the charter of secularism? Ordinarily, the new practices required of employees such as nurses are based on scientific evidence. Moreover, the decision to impose new norms follows a cost-benefit analysis.

In the case of Bill 60, no serious study supports the proposed workplace conditions. Nor has the government revealed the slightest assessment of the foreseeable consequences of applying the law to its workforce.

In addition, the charter will transform into serious misconduct a behaviour that we have regarded, until now, as the exercise of a fundamental freedom. Have the conditions of Quebec society changed enough to justify this radical change in workplace policy?

Let's end the distraction of false debates and focus on the concrete question.

The PQ government is selling this initiative on the basis that we believe in our values. Is it fair to fire people who show their belief in those values in a different way?

*Robert Leckey teaches constitutional law at McGill University.*

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