

IN THE COURT OF SHAKESPEARE

BETWEEN:

***FAMILY OF X, A MINOR***

Applicant

– and –

***WILLIAM SHAKESPEARE HIGH***

Respondent

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**FACTUM OF THE APPLICANT**

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**INDEX**

<b>PART I - FACTS.....</b>	<b>1</b>
<b>PART II - ISSUES .....</b>	<b>2</b>
<b>PART III - ARGUMENTS.....</b>	<b>3</b>
<b>A. THE QUEBEC LAW PROHIBITING THE WEARING OF SYMBOLS OR DRESS BY WHICH STUDENTS IN PUBLIC SCHOOLS CONSPICUOUSLY MANIFEST A RELIGIOUS AFFILIATION IS AGAINST THE LAW OF SHAKESPEARE.....</b>	<b>3</b>
1. The law of Shakespeare encourages religious and secular elements to commingle with no mind paid to religious dress or affiliation. ....	<b>Error! Bookmark not defined.3</b>
2. Quebec law is inconsistent with the precedents of this Court regarding devotion and unique identity and must be struck down .....	<b>4</b>
<b>B. PARENTS ARE RESPONSIBLE FOR THE SPIRITUAL WELL-BEING OF THEIR CHILDREN, EVEN WHERE THAT SPIRITUAL WELL-BEING IS IN CONFLICT WITH CONCERNS OF THIS WORLD.....</b>	<b>5</b>
1. In Shakespeare, the state is incapable of ensuring the well-being of children. Only the family can do so. ....	<b>Error! Bookmark not defined.5</b>
2. The State should not interfere with parents' responsibility for their children because the relationship between parents and children is integral to a well-functioning society .....	<b>9</b>
<b>C. THE REVEALED TRUTH OF GOD IS NOT SUBJECT TO ANY SECULAR JURISDICTION .....</b>	<b>10</b>
1. Shakespeare extols the virtue of faith, specifically personal faith.....	<b>10</b>
2. Shakespeare calls for public recognition of private religious experience.....	<b>13</b>
3. Shakespeare recognizes the importance of conflicting social forces and their role in engendering responsibility .....	<b>Error! Bookmark not defined.14</b>
<b>PART IV - ORDER SOUGHT.....</b>	<b>17</b>
<b>PART V - LIST OF AUTHORITIES.....</b>	<b>18</b>

**PART I – FACTS**

1. Sahar X is a sixteen-year old girl from a devout Muslim family. She arrived in Canada with her family six years ago; they were forced to flee Algeria due to the government's persecution of their religious and political beliefs.
2. To express her faith and submission to God, Sahar wears a full *niqab* in public at all times. This mode of dress also satisfies her family's wishes.
3. Recently, the Quebec government passed a law that prohibits in public schools the wearing of symbols or dress by which students conspicuously manifest a religious affiliation.
4. Sahar, bound to observe her faith and her family's wishes, has not complied with the new law. After teachers and students complained about her appearance, she was twice refused admission to William Shakespeare High School in NDG.
5. The Headmaster of the school has affirmed his support for the new legislation, and believes that prohibiting public displays of religious identity is necessary to safeguard secular society. He defines Sahar's mode of dress as an "aggressive proselytism in the schools" and says that she must limit the affirmation of her identity in the public space.
6. Sahar's family has appealed to the school, the school Board, and to the Ministry of Education. Each appeal has been denied. As a compromise, the parties have referred the matter to this Court. The applicants seek an order of mandamus re-admitting Sahar to her school.

**PART I - ISSUES****A. IS THE QUEBEC LAW PROHIBITING THE WEARING OF RELIGIOUS SYMBOLS OR DRESS AGAINST THE LAW OF SHAKESPEARE ?**

7. Yes. The Quebec law prohibiting religious symbols or dress contravenes the law of Shakespeare. In Shakespeare, the secular and non-secular are fused, and commingling of the secular and sacred must be tolerated. Moreover, devotion to one's personal beliefs and to others is a moral virtue in Shakespeare. Sahar X's devotion to her faith and family is a value with which the Court must not interfere.

**B. ARE PARENTS RESPONSIBLE FOR THEIR CHILDREN'S SPIRITUAL WELL-BEING, EVEN AND ESPECIALLY WHEN THAT SPIRITUAL WELL-BEING CONFLICTS WITH OTHER CONCERNS OF THIS WORLD?**

8. Yes. The law of Shakespeare demonstrates that *only* parents can be responsible for children's spiritual well-being. The responsibility of parents for children's moral and spiritual upbringing is necessary to curb the excesses of State authority. This Court has affirmed that the State should not interfere with familial relationships.

**C. IS THE REVEALED TRUTH OF GOD SUBJECT TO SECULAR JURISDICTION?**

9. No. The law of Shakespeare extols a personal faith-based relationship with God which requires recognition but not regulation. This Court has affirmed that religion is a conflicting extra-positive source of natural law that must be allowed to co-exist with man-made laws in order to foster choice and individual responsibility.

## PART II - ARGUMENTS

### A. THE QUEBEC LAW PROHIBITING THE WEARING OF SYMBOLS OR DRESS BY WHICH STUDENTS IN PUBLIC SCHOOLS CONSPICUOUSLY MANIFEST A RELIGIOUS AFFILIATION IS AGAINST THE LAW OF SHAKESPEARE

#### **1. The law of Shakespeare allows and encourages religious and secular elements to commingle with no mind paid to religious dress or affiliation.**

10. Society today has attempted to separate the secular from the religious. Yet the world of Shakespeare and the world in Shakespeare were not divided as such. The law of Shakespeare demands the recognition of sacralty within the public sphere. Shakespeare endorses a personal, faith-based relationship with God that demands public recognition *without* regulation. In the words of one of this Court's justices: "Law needs to show itself humble in the face of social reality and . . . recognize the power and importance of those ethical forces which are foundational to society yet operate 'outside' or 'before the law'."

Desmond Manderson, "Not Drowning, Waiving: Responsibility to Others in the Court of Shakespeare," in forthcoming *Law, Culture, and the Humanities* at 18 [*Not Drowning*].

11. Moreover, in Shakespeare's plays, wearing religious dress in public spaces was not banned or discouraged; to the contrary, it often serves to further the plot. Therefore, in accordance with the laws of Shakespeare, Sahar X ought to be able to wear religious clothing in her high school. The Duke disguises himself as a friar for most of *Measure for Measure*. In *All's Well that Ends Well*, Helena's pilgrim garb is accepted and unquestioned. Lastly, in *Hamlet*, Hamlet wears mourning attire as an indication of his inner spiritual state. While his family disapproves of his dress, the text implies that Hamlet is right to mourn his dead father and that Claudius's brief period of mourning is unseemly.

Shakespeare, *Measure for Measure*, ed. N.W. Bawcutt (Oxford: Oxford UP, 1991) [*Measure for Measure*].  
Shakespeare, *All's Well that Ends Well*, ed. Sylvan Barnet (New York: Signet Classics, 2005) [*All's Well*].  
Shakespeare, *Hamlet*, in *The Norton Shakespeare* ed. Stephen Greenblatt (New York: W.W. Norton & Co., 1997) at 1659 [*Hamlet*].

**2. Quebec Law is inconsistent with the precedents of this Court regarding devotion and unique identity and must be struck down.**

12. Explicating his decision in *Canada (A.G.) v. Pears*, Manderson J said that faith should not necessarily be conceptualized as a religious concept, but rather as an indicator of “the trust and respect we ought to show to others in consequence of their uniqueness and the irreducibility of their being.” It would be illogical for this Court to deny that respect and trust to persons who *do* understand faith in religious terms.

“Not Drowning” at 9.

13. Moreover, Shakespeare beckons us to look at personal and interpersonal faith as a kind of devotion. Polonius’s oft-quoted advice to Laertes holds true today and must be recognized by this Court: “This above all – to thine own self be true, / And it must follow, as the night the day, Thou canst not then be false to any man.” Laertes’s advice recognizes the necessity of devotion to oneself and one’s principles. More significantly, however, his advice bridges the gap between self and others – he explains trueness to oneself as a necessary step towards devotion to others. Shakespeare reminds us that if you are true to yourself, you will exhibit the same devotion to others in turn.

*Hamlet* at 1.3.78-80.

14. Sahar’s devotion to her religious beliefs and to those in her life whom she loves and respects must be accorded the respect that this Court has held ought to apply to all individuals. Devotion is a principle value in the plays of Shakespeare. Hamlet is devoted to the remembrance of his dead father; in *The Winter’s Tale* Paulina is devoted both to Hermione’s memory and to principles of morality, faith, and justice; Helena’s steadfast devotion to Bertram ultimately resolves the conflict of *All’s Well that Ends Well*; and lastly, Isabella is committed to exposing the truth of Angelo’s reign and fighting for justice in *Measure for Measure*. Devotion is

consistently extolled as a virtue in the plays. This Court must understand Sahar's devotion to her faith and family no differently. The Quebec law interferes with Sahar's devotion to her faith and family, and this interference contravenes the law of Shakespeare.

*Hamlet.*  
*The Winters Tale.*  
*All's Well that Ends Well.*  
*Measure for Measure.*

**B. PARENTS ARE RESPONSIBLE FOR THE SPIRITUAL WELL-BEING OF THEIR CHILDREN, EVEN AND ESPECIALLY WHERE THAT SPIRITUAL WELL-BEING IS IN CONFLICT WITH CONCERNS OF THIS WORLD.**

***1. In Shakespeare, the State is incapable of ensuring the well-being of children. Only the family can guarantee that children flourish mentally, ethically, and spiritually.***

15. In Shakespeare's plays, whenever the State attempts to subvert parental responsibility for children by claiming this responsibility for itself, children are gravely damaged and suffer injury to their moral, spiritual, and mental well-being.

16. In *All's Well that Ends Well*, Bertram's departure from his mother and the remembrance of his father marks the beginning of his moral and spiritual degeneration. The play opens with Bertram being sent from home to the custody of the King. His wardship removes him from the familial scene. Responsibility for his well-being shifts from the Countess – his natural mother – to the King – the corporeal embodiment of State power. This shift begins Bertram's forgetting of the parental forces that constituted him as a moral, ethical, and spiritual subject. Before he leaves, the Countess tells Bertram:

Be thou blessed, Bertram, and succeed thy father  
 In manners as in shape! Thy blood and virtue  
 Contend for empire in thee, and thy goodness  
 Share with thy birthright!

The Countess reminds Bertram to look to his dead father as a guidepost for virtuous living. The King echoes this sentiment, saying, "Thy father's moral parts / May'st thou inherit too!" The

King declares that his remembrance of Bertram's father's humility and constancy "much repairs" him. Yet Bertram has nothing to add to the King's memories. He can only reply, obsequiously, that the King's words are a better affirmation of his father's life than his epitaph. Removed from the constitutive force of family, Bertram indulges in debauchery and dissolute behaviour. He rejects Helena as a wife, plots to render their marriage illegitimate, and engages in what he believes is the seduction and ruin of a gentlewoman. The wardship of the King cannot replace the spiritual guidance of Bertram's father. For, even though the King's son is "no dearer" to him, the play insists that Bertram is *not* the King's son, and the King – as embodiment of State authority – is no substitute for Bertram's father.

*All's Well* at 1.1.64-68, 1.2.21-22, 1.2.30, 1.2.48-51, and 1.2.76.

17. Like Bertram, Helena is also unable to remember the spiritual and moral guidance of her parents. Her forgetfulness marks the beginning of another, albeit less pronounced, spiritual and moral deterioration. She remarks, "I think not on my father . . . What was he like? / I have forgot him; my imagination / Carries no favour in't but Bertram's." Helena is aware of the harmful implications of her forgetfulness. She speaks of her replacement of her father's memory with Bertram's "bright radiance" as a "plague" and an "idoltrous fancy." Later, she rejects the Countess as a parental mother. Her rejection acknowledges that a parental relationship would prevent the Countess from becoming her mother-in-law, rendering marriage to Bertram incestuous and impossible. Helena's rejection and forgetting of parental figures marks the beginning of the calculated trickery and deceit she uses to ensnare a husband. The remembrance of parents is the most significant source of moral and spiritual virtue in the play. In forgetting and rejecting the tutelage of their fathers and mothers in favour of that of the King – who is never a parent but only a monarch – Helena and Bertram journey into spiritual degeneration.

*All's Well* at 1.1.85-89, 1.1.94-104, 1.3.139-68, and 1.1.235-35.

18. In *Hamlet*, the State is portrayed as an absolutely inappropriate vehicle for the moral and spiritual guidance of children. Denmark, embodied by King Claudius, cannot ensure spiritual welfare because it is utterly devoid of any moral or spiritual sensibility. It is instead the very locus of corruption: “Something is rotten in the state of Denmark.” Only the parent-child relationship can provide characters with the tools and guidance necessary for proper spiritual development. The State’s cooptation of the parental role is highlighted as farcical and hypocritical when Claudius tells Hamlet to be moderate in his grief. Later, Claudius celebrates his coronation with immodesty indicative of his spiritual corruption.

*Hamlet* 1.4.67, 1.2.87-95, and 1.4.9-18.

19. The guidance Claudius offers to Hamlet is contrasted against that offered to him by the Ghost – Hamlet’s true father. Whereas Claudius urges Hamlet to forget his father, the Ghost demands that Hamlet honour his memory by rectifying the corruption Claudius has ushered into the kingdom. The Ghost tells him, “Let not the royal bed of Denmark be / A couch for luxury and damnèd incest. / But howsoever thou pursuest this act, / Taint not thy mind.” Hamlet’s father instructs Hamlet to avenge his death, but he nuances this charge by reminding Hamlet to remember his moral conscience even as Claudius would instruct him to forget – to be a bystander to treason, regicide, and incest.

*Hamlet* at 1.5.82-85.

Stephen Greenblatt, “Remember Me,” in *Hamlet in Purgatory* (Princeton and Oxford: Princeton UP, 2001) [Greenblatt].

20. When it comes to their children, sovereigns must act as parents and not as kings. In *Pears*, Manderson J held that “Children . . . are the blessing that faith bestows.” *The Winter’s Tale* emphasizes that children are a blessing parents must *earn* through the proper exercise of faith – which has been defined by this Court as faith in the relationship, among other things. If they fail to take responsibility for their offspring, this blessing can be revoked. In the play,

Perdita is cast away from her parents by the force and power of the sovereign, Leontes, who is also her father. The *disruption* of the parent-child relationship ushers in tragedy – Hermione’s ostensible death, Leontes’s grief and remorse, and Perdita’s exile.

*Canada (A.G.) v. Pears* at para. 41 [*Pears*].  
Shakespeare, *The Winters Tale*, ed. Stephen Orgel (Oxford: Oxford UP, 1996) [*The Winter’s Tale*].

21. Although Perdita is without natural parents, she avoids the moral decline suffered by Bertram and Helena. Her salvation is attributable to the fact that she finds a surrogate family in Bohemia. Perdita is redeemed and salvaged by the Shepherd, who demonstrates the faith and fidelity that is a necessary precondition of good parentage in Shakespeare’s universe. “It is the shepherd’s innocent faith in the innocent child that rescues her.” *All’s Well* makes it clear that wardship cannot supplant kinship, and in *The Winter’s Tale*, Shakespeare clearly does not envision kinship as the sole domain of blood relatives. Rather, kinship is about parental responsibility and guidance. For the Shepherd, finding a child is a blessing, a fortuitous stroke of luck. Cynics would argue that he considers himself lucky only for the gold that accompanies the infant. But the Shepherd acknowledges that a blessing demands of one that he blesses in turn: “‘Tis a lucky day, boy, and we’ll do good deeds on’t.”

*The Winter’s Tale* at 3.3.132-33.

22. Perdita’s natural father must *earn* the blessing of his daughter’s return by demonstrating the same faith in his child as the Shepherd does. He must accept the responsibilities of parenthood – part of which is the moral instruction and spiritual guidance of children – as a blessing. In the end, “it is his rekindled faith that ultimately restores peace, order, and good government.” In acting like a King, Leontes fails as a parent. Only by acting as a parent can Leontes reintegrate his kingdom. Law is a poor substitute for parenting, and this Court must not encourage this substitution in the case at bar.

*Pears* at paras. 24 and 30.  
*The Winter's Tale*.

**2. The State should not interfere with parents' responsibility for their children because in Shakespeare, the relationship between parents and children is integral to a well-functioning society.**

23. Although parent-child relationships are not the main focus of *Measure for Measure*, when parents are mentioned in the play, the laws of Shakespeare vis-à-vis parents and children remain consistent. When the State impinges upon parental responsibility for their children, society crumbles. The State depends on the moral guidance provided by the family for its own continuance, and the spiritual instruction given by parents to children is integral to a well-functioning society. In *Measure for Measure*, parental remembrance is a source of honourable behaviour, and those who act dishonourably have not heeded the advice and example of their parents. The exchange between Claudio and Isabella in prison is telling. Claudio resigns himself to death, "If I must die, / I will encounter darkness as a bride, / And hug it in mine arms." Isabella tells him that this courage before death is honourable: "There spake my brother; there my father's grave / Did utter forth a voice." Moments later Claudio loses his courage and begs his sister to give up her virginity in exchange for his life. Isabella decries this shameful behaviour and denies that her brother could be her father's issue, "Heaven shield my mother played my father fair, / For such a warped slip of wilderness / Ne'er issued from his blood." In Shakespeare, parental guidance is necessary, as it enables children to make virtuous choices that benefit their spiritual well-being.

*Measure for Measure* at 3.1.85-88 and 3.1.144-46.

24. It is established law of the Court of Shakespeare that some concepts and relationships cannot be subjected to rational processes – they should be outside or beyond law's reach. This is a principle that has been upheld consistently by both the majority and minority in *Pears*.

Manderson, paraphrasing Yachnin J’s judgment in *Pears*, commented that “certain elements, such as love and faith between persons, *essential* as they are to legal civilization, stand necessarily and desirably outside of the control of law.” The moral instruction central to the parent-child relationship is one such element that must be beyond law’s reach.

*Pears*, at para. 26.

25. In his commentary on *The Bard de la Mer*, Manderson J gives further support to the point above. He writes that *Measure for Measure* is “a vicious satire on law itself, and on law’s inability – perhaps even the immorality of attempting – to prevent humans from being all too human.” He goes on to point out that the dissenting judgments in this case “insist on the *necessity* that law sometimes curb its own regulatory enthusiasms.” Without this temperance, the complimentary forces that work within society – law, morality, religion – cannot inhere: the balance of tensions is upset, and society finds itself out of order.

“Not Drowning” at 18.

### **C. THE REVEALED TRUTH OF GOD IS NOT SUBJECT TO ANY SECULAR JURISDICTION**

#### **1. Shakespeare extols the virtue of faith, specifically personal faith**

26. It has already been confirmed by this court that Shakespeare values faith. As Manderson, J. states, “Faith is the rock that saves us when evidence cannot.” Although he goes on to argue that faith must not be of a “religious or sacred character,” the applicants submit that although it need not be religious, religious faith must be recognized if it is of a personal (and sacrificial) nature.

*Pears*, at para. 30.

27. It is precisely this personal sort of faith that is extolled throughout our codex. It is the trust that Hermione and Paulina have that the lost child will be found and Hermione’s willingness to remain a statue if their faith be not justified; it is Florizel’s willingness to give up title to the throne

for his love of Perdita; and it is faith in the ghost of his father that drives Hamlet to self-actualization. These highly personal acts of faith are the motivating factors that drive the plays to their natural conclusions and thus must be read as crucial in our interpretation of the constitution of our court.

*The Winter's Tale.*  
*Hamlet.*

28. While the respondents will no doubt argue that these acts of faith are purely secular in nature, the applicants submit that the religious undertones that run throughout these acts are undeniably and inextricably connected to their core. As Yachin, J. argues in his dissent in *Pears*, “individual interpersonal faith cannot be prised apart from religious faith.”

*Pears* at para. 62.

29. This is nowhere more clearly demonstrated than in the final scene of *A Winter's Tale*, in which Pagan symbolism is mixed with elements of Protestantism and Roman Catholicism. During the scene, where a pagan-esque ritual is conducted by a namesake of the apostle Paul, all before a largely Anglican audience, Shakespeare tells us “It is requir'd / You do awake your faith.” By intermingling elements of different religions, we argue that Shakespeare intends to personalize and heighten the religiosity of the experience by removing it from its institutional and divisional roots.

Huston Diehl, "Does Not the Stone Rebuke Me?": The Pauline Rebuke and Paulina's Lawful Magic in *The Winter's Tale*" at 1 [Diehl].  
*The Winter's Tale* at 5.3.95-96.

30. We further argue that Shakespeare personalizes the scene in two other ways; firstly, by including himself and secondly, by including the audience. He includes himself by responding to the proclamation of 1559 (that specifically forbade the theatre to meddle in matters of religion) by staging “a kind of apologia for the theatrical spectacle.” The court need not decide whether this apologia is an endorsement of Protestant critique, of medieval hagiography, or of Roman Catholic

images, it must only recognize that it is an attempt to reintegrate the theatre into a religious framework, and in so doing places Shakespeare himself within that sacred, joyous world.

Anthony Dawson, "Shakespeare and Secular Performance" at 2 [Dawson].  
Diehl at 16.

31. Finally, the scene also draws in the audience by making Paulina's words to the onstage spectators Shakespeare's words to the audience. As Huston Diehl explains:

The statue scene forces the spectators in the theater to recognize how their experience of the statue, and, indeed, of all theatrical spectacle in an open-air theater like the Globe, is mediated by the playwright's words, for they can only make sense of what they see on the stage – a boy actor playing Hermione playing a statue -- by putting their faith in the playwright's words. Indeed, Paulina's trick – Shakespeare's trick – turns upon the audiences' willingness to trust the playwright's words.

By adding the words, "those that think it is unlawful business / I am about, let them depart,"

Shakespeare invites the audience to participate, and in a sense to condone the acts on stage – acts that they know are taboo as a result of the proclamation. In a sense, Shakespeare forces each individual to question his own relationship with spirituality, and embrace his own personal faith.

*The Winter's Tale* at 5.3.94-97.

32. The applicants submit that this interpretation of the final scene, one that endorses the recognition of a personal relationship with God, must be accepted by this court because it falls most closely in line with the living tree principal. It is likely that Shakespeare, living when he did, would have intended precisely this sort of interpretation. According to John Sommerville:

One ironic effect of the Reformation was that it hastened the transformation "from religious culture to religious faith", i.e., from a society imbued with the supernatural to one in which faith is (ideally at least) a reasoned personal choice.

Similarly, today we live in a pluralistic society that recognizes different personal relationships with God. Whether faith is one's reasoned choice or the revealed truth of God, everyone should be able to practice their faith in a manner commensurate with their beliefs.

Dawson at 4.

## 2. Shakespeare calls for public recognition of private religious experience

33. For the purpose of this case, it is not enough that this court recognizes that Shakespeare values a private relationship with God. The court must find that public recognition is a necessary part of religious experience and therefore must recognize it as a value worthy of protection. It is important that we draw a distinction between regulation and recognition. The applicants submit that the revealed truth of god is not subject to secular jurisdiction; however, while the state must not regulate the sacred sphere of faith, we argue that it is obligated to recognize it.

34. Once again, *A Winter's Tale* provides guidance on this matter. As King, Leontes can be interpreted *as* the State. It is precisely Leontes' empty act of seeking advice from the Oracle followed by his refusal to recognize the validity of its words that begins the unraveling of the state of affairs in Sicilia. Order is only restored after Leontes repents and heeds Paulina's command to "awake [his] faith." Although Leontes' lack of recognition of religion does not hinder Paulina's personal sense of faith, we cannot help but feel that the state is weakened by Leontes' stubborn refusal to believe. The play ends with Leontes confirming Paulina's faith and becoming an advocate for its recognition, "If this be magic, let it be an art / Lawful as eating." This statement also informs the audience of the play of Shakespeare's desire for state recognition of elements of religion which were banned from the theatre by the 1559 proclamation.

*The Winter's Tale* at 5.3.95 and 5.3.110.

35. Further evidence of the need for state recognition of religion can be found in Hamlet's treatment of his father's Ghost. What begins as a highly personal interaction develops into a near obsession for public validation. First he stages a public play to confirm his beliefs, then he seems desperate to have his mother bear witness to the ghost, and finally, in the last act, he charges Horatio to tell his story, not once but twice: "And in this harsh world draw thy breath in pain / To tell my

story.” And again, “Horatio, I am dead, / Thou liv'st. Report me and my cause aright / To the unsatisfied.”

*Hamlet* at 5.2.280-82 and 5.2.290-91.

36. Hamlet’s need to have his faith recognized by the onlookers in the play mimics Shakespeare’s need to have the audience recognize that there is a place for personal religious belief in their own hearts, minds and imaginations – and most importantly on the stage. The fact that Shakespeare stages the ghost in a way that conjures images of the Protestant church’s prohibition of belief in purgatory forces us to question whether he is indeed insisting upon public recognition of his own personal Catholic beliefs. In order to understand why there must be a place in the public sphere for personal religious experience, we must look no further than the line spoken by Hermione:

if powers divine  
behold our human actions, as they do,  
I doubt not then but innocence shall make  
False accusation blush and tyranny  
Tremble at patience.

Greenblatt at 253.

*The Winter’s Tale* at 3.2.26-30.

### **3. Shakespeare recognizes the importance of conflicting social forces and their role in engendering personal responsibility**

37. In *In re Heinrich Manderson J* stated, “There is no law without responsibility” and later elaborated that responsibility must be “freely given.” The applicants submit that if the court does not recognize that individuals may follow a higher power than the state, they will limit their exercise of responsibility by limiting their choices. We argue further that Shakespeare recognizes the importance these conflicting and complementary social forces, and the need for the tension they create. In *Measure for Measure*, when Mariana and Isabella are faced with a harsh and yielding law, they appeal for justice from the heavens. The Duke also recognizes the necessity of tempering law with religion: “He who the sword of heaven will bear / Should be as holy as severe.” Therefore, the

court must allow religion to function as an extra-positive source of natural law, in order to bolster individual responsibility. This Court has seen in *Heinrich* how obedience to only one source of normative authority limits the exercise of responsibility. Law, morality, the family, and religion each make normative claims that demand obedience from their subjects. Persons must therefore choose between norms, and this opportunity to choose forces people to engage in a deliberative process that engenders responsibility before the law.

*In re Attorney General for Canada; ex parte Heinrich* [2003] 1 C. of Sh. 1 at 289 [*Heinrich*].  
*The Bard de la Mer (Du Parcq v Pedersen; Pedersen v Vidaloca)* [2005] 3 C. Of Sh. 1 at 6 [*Bard de la Mer*].  
*Measure for Measure* at 5.1 and 3.1.515-16.

38. Both Justices Yachnin and Jordan have already recognized religion as an “extra positive source” that operates within the plays. Nowhere is this more clearly seen than in *Measure for Measure*, which the applicants posit must be interpreted as making a case for the necessity of balancing state law with divine mandate, operating within the same sphere. Although much of the play functions as a critique of unquestioning obedience to legal rules, (in the form of Angelo); of unquestioning obedience to divine scripture (in the form of Isabella); and of complete discretion (in the form of the duke); it offers answers to these critiques as well.

*Bard de la Mer.*

39. As Manderson J was right to point out, “Only Escalus--surely his scales are those of justice--refuses the trap and offers us instead somebody at last prepared to accept responsibility without looking for a way out” Although he is the only one who consistently behaves responsibly, we see traces of personal responsibility in the main actors as well. Isabella behaves responsibly when she pleads for Angelo’s life; and the Duke, despite creating a mess by evading responsibility, redeems himself by uniting elements of divine law with those of a more traditional stately role.

*Bard de la Mer.*  
*Measure for Measure.*

40. It is important that although Escalus' behavior is above reproach it is the Duke who drives the play to its conclusion. He does so by dressing as a Friar (playing the dual role of church and state), by being the only one to dole out forgiveness (the Christian act that playgoers were expecting based on the title and history of the play), and by eventually marrying Isabella (and in so doing, cementing the bond between church and state).

*Measure for Measure*

41. The applicants contend that the Duke's cathecting of religion and state must be given greater weight for two reasons. Firstly, all of the aforementioned acts were new additions by Shakespeare to the play from which *Measure for Measure* was derived and hence are unique to and given distinction by the Law of Shakespeare. And secondly, they represent the duality of the common law and the courts of equity; the latter, Shugar points out, being religious in their roots:

The fact that so many of the men who developed the basic principles and procedures of English equity were clerics meant that equity, as contemporaries recognized, was a specifically Christian justice system.

The fact that equitable doctrines coexist harmoniously today with those of common law bring the duality between divine and state authority in line with the living tree principle, as well.

Debora Kuller Shuger. *Political Theologies in Shakespeare's England: The Sacred and the State in Measure for Measure* (New York: Palgrave, 2001) at 88.

42. It is important that this Court heeds its own words: "Against lawless desire faith is bulwark and a promise." Shakespeare has cautioned us time and again that the power of the state, when left unchecked, can wreak havoc on its citizens. He has also provided us with a solution: the balance of law with religion and a personal commitment to faith. We respectfully submit that this Court must honor this principle and find for the applicants.

*Pears* at para. 32.

**PART III - ORDER SOUGHT**

The Applicants therefore request that this Honourable Court

**GRANT** an order of mandamus allowing Sahar X to return to William Shakespeare High School;

**DECLARE** the Quebec law banning religious symbols in public schools invalid.

All of which is respectfully submitted.

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Airina Rodrigues

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Tara Steinberg

Counsel for the Applicants  
9 March 2007

## **PART IV - LIST OF AUTHORITIES**

### **CODEX, INSTITUTES, DIGEST – The Plays of Shakespeare**

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