



Opinion / Columnists

Hanes: Bill 21 decision full of contradictions and doesn't make sense

It's hard to see this judgment as anything but a blow to women, minorities, fundamental rights, diversity, inclusion and Quebec society.

Allison Hanes • Montreal Gazette

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Students and staff at Westmount High School show their support for the court ruling against parts of Bill 21. English school boards were "elated" their protected status and history of championing diversity was recognized by the court. PHOTO BY RYAN REMIORZ /The Canadian Press

For the first time since his government introduced Bill 21, Quebec's controversial and abhorrent secularism legislation, I agree with Premier François Legault on something.

"I don't understand the decision," he said Tuesday, referring to the 242-page Quebec Superior Court Court judgment issued on a constitutional challenge of the law prohibiting public sector authority figures, like teachers, police officers and judges from wearing religious symbols. In a nutshell, the ruling finds Bill 21 discriminates against Muslim women in particular, but upholds the law on the grounds Quebec pre-emptively invoked the notwithstanding clause. However the judge crucially exempts the application in the English school system, recognizing the anglophone community's right to ensure diversity and inclusion in hiring its teachers.



"I don't see the relationship between language and values, including secularism," Legault said.

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Legault did, after all, bring in the secularism law that runs roughshod over the rights of religious minorities, after stoking prejudices about “the other” with his dog-whistle politics. He is probably fuming that the court handed a win to the EMSB. He often treats the anglophone community as an irritant that, at best fails to fall in line, and at worst thwarts his plans. The Bill 21 challenge is just the latest example — and one dear to his heart.

The EMSB and other English school boards are “elated” that their protected status and history of championing diversity as a matter of principle have been recognized by the court. And rightfully so. The anglophone community has been an important ally for religious groups in the crosshairs of a government hell-bent on instituting state neutrality. Hopefully, this decision bolsters their coming challenge of Bill 40, abolishing school boards. Even if this nod to the rights of English schools can be seen as a silver lining, the community must not lose sight of the reasons it joined the fight in the first place.

Because it’s hard to read this judgment as any kind of victory: for women, particularly Muslim women; for minorities; for fundamental rights; for diversity; for inclusion and for Quebec society.

The flip side of this decision is that Bill 21 can go ahead and trample the rights of Muslim, Jewish or Sikh teachers if they work in the French-language school system or other public institutions. Their right to have a religious identity and to express it through articles of faith like the hijab, kippah or turban, is only recognized if they work for an English school board (or get elected to the National Assembly. That’s another big curveball in the ruling).

What about teachers who currently work for French-language school boards? They won’t be fired, but they will never be allowed to advance up the career ladder without removing their religious insignia. What about aspiring teachers? They will simply never be hired in the francophone system because of their faith. What about religious minorities who want to be police officers, prosecutors or judges? They will never be represented within law enforcement or the justice system. I guess they can march over to the EMSB and apply for work. But why do rights count in anglophone institutions but not francophone ones?

The message this ruling sends to the general public — with whom Bill 21 is popular, polls have shown — is that the majority doesn’t have to be tolerant. Diversity is the domain of minorities alone and need not concern society as a whole.

The ruling is a study in contradictions. Justice Marc-André Blanchard acknowledges that legislation claiming to promote the equality of the sexes negatively affects “vulnerable” Muslim women, first and foremost.

He agrees the restrictions on religious symbols violate constitutional rights, but accepts that the government shielded the law with the notwithstanding clause.

He posits that secularism, the *raison d’être* of Bill 21, is born of the same philosophical roots as religion. But he apparently concludes these two sides of the same coin are irreconcilable

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This is far from the final word, however. The Quebec government has already announced it intends to appeal in order to defend Bill 21 (and to deny English schools any special treatment).

I agree with the decision to appeal, too, but again for differing reasons. The ruling only compounds the sexism, racism, unfairness, injustice and social resentments that the secularism law unleashed.

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