SUPREME COURT OF CANADA

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Case Pre-Brief: *English Montreal School Board v. Quebec (Attorney General)*

Hearing of March 23, 24, 25 and 26, 2026 | On appeal from the Court of Appeal of Quebec

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The Supreme Court of Canada will decide constitutional challenges to Quebec's Bill 21 on state secularism, including the extent to which a legislature can override constitutional rights by invoking the notwithstanding clause of the *Canadian Charter of Rights and Freedoms*.

On June 16, 2019, Quebec adopted the *Act respecting the laicity of the State*, commonly known as Bill 21. This law relates to the separation of religion and state. It includes rules against wearing religious symbols while performing public functions.

Bill 21 has been challenged by individuals and organizations, including teachers, religious and civil liberties groups, and the English Montreal School Board. They argue that the law violates constitutional rights or exceeds Quebec's legislative authority. The Quebec government maintains that the legislation is constitutionally valid.

Bill 21

Bill 21 declares that Quebec's secularism is based on four principles: separation of state and religions, religious neutrality of the state, equality of all citizens, and freedom of conscience and religion.

The law prohibits public school teachers, police officers, government lawyers and other officials from wearing religious symbols while carrying out their duties. It also requires certain officials or service providers to carry out their duties with their faces uncovered. In addition, it amends Quebec's *Charter of human rights and freedoms* to recognize the importance of secularism.

Bill 21 invokes the notwithstanding clause in section 33 of the Canadian *Charter* and the override clause in section 52 of the Quebec *Charter*. Under section 33 of the Canadian *Charter*, Parliament and provincial legislatures may override certain *Charter* rights and freedoms, namely the fundamental freedoms guaranteed by section 2, the legal rights set out in sections 7 to 14, and the equality rights protected by section 15. Similarly, under section 52 of the Quebec *Charter*, Quebec's National Assembly may override rights and freedoms protected by sections 1 to 38 of that *Charter*.

The lower courts

On April 20, 2021, a judge of the Quebec Superior Court upheld most of Bill 21 but found that a few of its provisions violated constitutional rights that cannot be overridden using the notwithstanding clause. As a result, he declared those provisions to be of no force or effect. More specifically, he said that the democratic rights protected by section 3 of the Canadian *Charter* are violated if members of the National Assembly are required to carry out their duties with their faces uncovered. The judge therefore ruled that this requirement could not apply to them. He also said that applying particular provisions of Bill 21 to English-language schools violated the minority-language education rights guaranteed by section 23 of the Canadian *Charter*. These rights include the power of management and control over minority-language educational institutions. He ruled that the provisions of Bill 21 violating these rights could not apply to people and institutions protected by section 23.

The Superior Court also considered a challenge to a survey conducted by Quebec's Ministry of Education before Bill 21 was adopted. The survey was sent to school boards to determine how many employees wore religious symbols and the number and nature of accommodation requests received on religious, linguistic or ethnocultural grounds. A teacher's association argued that the exercise violated their constitutional rights. The judge dismissed the challenge.

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On February 29, 2024, the Quebec Court of Appeal upheld the trial judge's conclusions except his decision concerning minority-language education rights. It said that Bill 21 does not violate section 23 because the law does not affect the use of the minority language or the content of the educational programs. Rather, it concerns only hiring practices. The Court of Appeal therefore overturned that declaration of invalidity. The Court of Appeal also agreed to dismiss the challenge to the Ministry of Education's survey.

Several parties appealed to the Supreme Court of Canada.

Questions before the Supreme Court

The Supreme Court was asked to decide whether Bill 21 is constitutionally valid. It was also asked to consider whether the notwithstanding clause was properly used and whether a court may still declare that Bill 21 violates the provisions of the Canadian *Charter* that are overridden by the invocation of the notwithstanding clause. The Court was also asked to decide whether there are limits on the use of the notwithstanding clause.

The Court was further asked to consider the effect of section 28 of the Canadian *Charter*, which guarantees all *Charter* rights and freedoms equally to male and female persons. In particular, it was asked whether section 28 contains a freestanding guarantee of equality and, if so, whether Bill 21 violates that guarantee.

Another issue was whether Bill 21 infringes the constitutionally protected rights of Quebec's English-speaking minority under section 23 of the Canadian *Charter*.

The Court was also asked to consider whether the face-uncovering requirement imposed on members of Quebec's National Assembly violates the democratic rights guaranteed by section 3 of the Canadian *Charter*.

Additional questions concerned whether Bill 21 is consistent with certain pre-Confederation laws, with the division of powers between the federal and provincial governments, and with Canada's constitutional framework. The Court was also asked to consider whether the Ministry of Education survey was constitutional.

The Supreme Court heard the case over four days from March 23 to 26, 2026, in what was one of the longest hearings in its history. Fifty-one interveners participated, including six attorneys general, which was a record number.

The Court reserved its decision.

More information: Case information

Lower court rulings: Applications (Superior Court of Quebec – in French only) | Appeals (Court of Appeal of Quebec)

This Case Pre-Brief was prepared by staff of the Supreme Court of Canada to help the public better understand the Court's work. It does not form part of the Court's reasons for judgment and must not be used in legal proceedings.