Religious Freedom in Manitoba's Public Sector

Melanie R. Bueckert

Chair, MBA Public Sector Lawyers' Section

April 16, 2020

Presentation Outline

- Response to Quebec's Bill 21, An Act Respecting the Laicity of the State
- Medical Assistance in Dying (MAiD)
- Political Activities of Public Servants





Manitoba's Response to Quebec's Bill 21

An Act Respecting the Laicity of the State

Response to Bill 21

- Legislative resolution
- Advertising campaign
- Court intervention?

Legislative Resolution

- <u>Throne Speech</u> (42nd Leg, 2nd Sess) November 19, 2019:
 - "That is why, at its first opportunity, your government will introduce a resolution to this legislature that will affirm Manitoba's commitment to freedom of conscience and religion of public servants. That resolution will include affirmation of each citizen's right to wear religious symbols or clothing of one's choice, and it will express our opposition to the use of the state's authority to restrict those freedoms."

Proposed Resolution

Hon. Mr. PALLISTER – Religious Freedom of Citizens

- WHEREAS diversity, inclusion and the protection of minorities are fundamental values in a free and democratic society; and
- WHEREAS the promotion and protection of the rights of all persons, including public servants, to exercise their freedom of religion, conscience and expression, in accordance with the Canadian Charter of Rights and Freedoms, are essential to human dignity and individual flourishing.
- THEREFORE BE IT RESOLVED that the Legislative Assembly of Manitoba strongly oppose
 passing any law that seeks to unjustifiably limit the religious freedoms of citizens, including
 passing a law that unjustifiably denies an individual's right to wear religious clothing or symbols
 of one's choice.

Legislative Debate

- Resolution introduced on November 27, 2019
- Legislature's opening prayer:
 - "O Eternal and Almighty God, from Whom all power and wisdom come, we are assembled here before Thee to frame such laws as may tend to the welfare and prosperity of our province. Grant, O merciful God, we pray Thee, that we may desire only that which is in accordance with Thy will, that we may seek it with wisdom and know it with certainty and accomplish it perfectly for the glory and honour of Thy name and for the welfare of all our people. Amen."

Opposition's Proposed Amendment

THAT the resolution be amended by adding the following:

(a) as the new first WHEREAS clause:

WHEREAS in 2019, the Province of Quebec enacted Bill 21, colloquially referred to as Quebec's secularism law, which bars public servants from wearing hijabs, kippahs, turbans, crosses and many other such religious symbols; and

(b) as the new last WHEREAS clause:

WHEREAS the Legislative Assembly of Manitoba has a responsibility to stand firmly against discrimination, intolerance and biased governance structures by publicly condemning Quebec's Bill 21 and supporting, in principle, constitutional challenges to Bill 21;

(c) at the end:

BE IT FURTHER RESOLVED that a copy of this resolution be sent by the Clerk of the Legislative Assembly of Manitoba to all Canadian provincial and territorial assemblies, premiers, as well as the federal Parliament and the Prime Minister.

Results

- Amendment:
 - Yeas 19, Nays 32
 - Amendment lost
- Resolution:
 - Yeas 53, Nays o
 - Motion carried



Advertising Campaign

- July 2019: letters to Quebec professional organizations
- Fall 2019: \$20,000 print & digital media ad campaign
 - "21 reasons to feel at home in Manitoba"

Vous êtes les bienvenus! Manitoba.ca/emplois

21 raisons de se sentir chez soi au Manitoba Bâtissez votre carrière dans la fonction publique du Manitoba

ernement, les organismes de soins de aanté, les sociétés d'État et d'autres lons du Manicola vous offrent de nombreuses perspectives d'emploi dans ve le prounte. rensemble de la province.

Nos fonctionnaires es ont fiers de promouvoir des lieux de travail diversifiés qui reposent sur l'adhésion à de solides normes éthiques et sur le respect de l'autre.

Dui plus est, les fonctionnaires du Mauiresh

Pepusent sur l'adhésion à de solides normes éthiques et sur le respecture.

Qui plus est, les fonctionnaires du Manitoba sont accueillis à bras ouverts et mis à l'honneur, queilles que soient leur religion ou leur culture. Au Manitoba, la diversité et respectée et valorisée. Voici ce que le Manitoba peut vous offrir, à vous et à votre famille.

1. Nous parlons français - La unauté francophone à l'out Manitoba, et dans les régions situées au sud de la ville, plus de 100 000 personnes parlent rançais; plus de 35 200 d'entre elles se sont

2. Cultures diversifiées - La population ethnoculturels représentant 150 pays et parlant 148 langues. Depuis 1970, le festival des nations Folklorama de Winnipeg met à l'honneur notre diversité multiculturelle.

3. Patrimoine autochtone - Soixante-

4. Soins Infirmlers - D'ici 2023, 4. Soins infirmiers
200 nouveaux postes en soins infirmiers
seront crées, vous offrant une rémunération ncurrentielle, des avantages sociaux et la possibilité de réaliser votre plein potentiel

5. Logement abordable - Devenez propriétaire de votre maison à un prix que vous pouvez vous permettre. Les prix du logement au Manitoba figurent parmi les plus bas au pays.

6. Venez nous rencontrer à la Fourche - Située au confluent des rivières Rouge et Assiniboine, la Fourche constitue un lieu de rassemblement depuis plus de 6 000 ans. De nos jours, la destination la plus importante de Winnipeg accueille plus de quatre millions de visiteurs chaque année dans ses boutiques et restaurants ainsi que sur ses promenades riveraines et pistes de patinage.

7. Éducation de qualité - Les cinq universités et les trois collèges communautaires du Manitoba offrent un enseignement postsecuraement parmi droits de scolarité de la province figurent parmi droits de scolarité de la province figurent parmi de soleillés en hiver et de belles journées établissement d'enseignement postsecondaire de langue française : l'Université de Saint-Boniface, qui offre des programmes universitaires entièrement en français.

8. Le cœur du Canada - Le Manitoba est situé en plein cœur du pays, ce qui donnera à votre famille et à vous un accès facile pour explorer le reste du Canada et les États-Unis.

9. Communauté artistique florissante Du Royal Winnipeg Ballet au Cercle Molière, la plus ancienne troupe de théâtre canadienne encore en activité, le Manitoba est un haut lieu de la culture qui a donné naissance à des artistes (danseurs, acteurs, écrivains et musiciens) célèbres dans le monde entier.

10. Ligue canadienne de football (LCF) Les Blue Bombers de Winnipeg, champions de la Coupe Grey 2019, viennent de célébrer leur 11e victoire de la Coupe Grey.

11. Ensoleillement – Winnipeg est la troisième ville canadionne

12. Musée canadien des droits de la 12. Musée canadien de la personne – Winnipeg accueille le seul musée au monde consacré uniquement aux droits de la personne. La dignité, le respect et l'inclusion sont mis en valeur dans ce musée national

13. Regard vers le nord - Churchill, la capitale mondiale de l'ours polaire, est située dans le magnifique Nord manitobain. Les visiteurs peuvent également monter à bord du Manitoba est issue de plus de 250 groupes d'un bateau Zodiac et se laisser dériver parmi les groupes de gracieux bélugas ou admirer les aurores boréales célèbres dans le monde tandis qu'elles dansent dans le ciel nocturne.

14. Ligue nationale de hockey (LNH) -Les Jets de Winnipeg sont l'une des équipes les plus intenses, les plus fières et les plus captivantes de la LNH. La patinoire à domicile de l'équipe se trouve au Beil MTS Place, où vous pourrez également assister à une multitude de ncerts, de spectacles et d'activités.

15. Art inuit - L'année 2020 marquera l'inauguration d'un centre d'art inuit à Winnipeg, où seront exposées plus de 7 500 sculptures de pierre, d'os, de bois de cervidé et d'ivoire provenant de l'ensemble de l'Arctique.

16. Communauté de cœur - Le taux de bénévolat au Manitoba demeure constamment parmi les plus élevés au pays. Les Manitobains sont ceux qui donnent le plus aux œuvres de charité, en proportion de la population, parmi l'ensemble des provinces canadiennes.

17. Grands espaces - Du camping dans l'arrière-pays aux fins de semaine en chalet, découvrez la beauté sauvage du Manitoba et vivez l'aventure dans les 92 parcs provinciaux de la province. En fait, au Canada, les Manitobains sont les plus nombreux, en pourcentage, à être propriétaires d'une maison de vacances.

18. Un véritable climat à quatre saisons du Manicos de grande qualité. De plus, les d'automnes colorés, de jours revigorants et Les Manitobains profitent d'étés longs et chauds, radieuses au printemps.

19. Remontez le temps - Explorez le célèbre Quartier de la Bourse de Winnipeg, constitué de 20 îlots abritant plus de 150 bâtiments patrimoniaux datant du début du XXe siècle. Situé au cœur du centre-ville de Winnipeg, ce trésor architectural est un paradis piétonnier qui accueille également des restaurants, boîtes de nuit et magasins.

20. Bières artisanales - Si vous aimez déguster une bonne bière fraîche, mouillezvous les lèvres dans l'une des microbrasseries du Manitoba. Que vous préfériez une bière blonde ou une stout très houblonnée, les maîtres brasseurs indépendants du Manitoba ont un don pour vous concocter des nectars qui vous feront sourire et briller le regard.

21. Les Manitobains accueillent la diversité et savent que le multiculturalisme est une force pour

avoi niqu Alex rêve voir de l' pas, Da s'en pen vou ni d

Purposes of the Campaign

 "The purpose of the campaign was twofold: Manitoba is a bilingual province and we need people with bilingual skills, and we are advancing our support for the rights and freedoms of minorities in Quebec and across the country," Olivia Billson, Premier Pallister's press secretary, wrote in an email.

Premier's Globe & Mail Interview

- "Here we have a piece of legislation that sends, I think, an un-Canadian message that they need to hide, or that they're less acceptable for some reason – not just for what they wear, but for what they believe," Mr. Pallister said in an interview with The Globe and Mail on Thursday. "I couldn't stand back, as a Canadian, and as a Premier, and not say that I think this is dangerous legislation."
- Last week, he asked Western premiers to issue a statement of concern at a meeting hosted by Alberta Premier Jason Kenney, but the others balked. In any event, a statement from Western premiers would be more likely to backfire than sway Quebec opinion. Mr. Pallister insisted he's not trying to disrespect the elected Quebec Premier, but feels compelled to voice his disagreement and he said that's "absolutely" the responsibility of federal leaders who feel the same way.
- "I would say there has been relative silence on this issue among many that I would hope would speak up," he said.

Court Intervention?



• <u>CBC reports</u> that Premier Pallister says it is "very likely" the province will seek intervener status regarding Quebec's controversial Bill 21 if the case heads to the Supreme Court of Canada

Medical Assistance in Dying

Freedom of Conscience Issues

 "Medical Assistance in Dying (MAiD) is available throughout Manitoba and is coordinated provincially by <u>Shared Health</u>. A provincial medical assistance in dying team is available to help patients access this service. Patients may speak with their health care provider or local health authority or directly contact the provincial MAiD team regarding accessing medical assistance in dying in their region."



- April Health Canada final interim report monitoring the progress of MAID across Canada: between Jan. 1, 2018 to Oct. 31, 2018, the average age of people who received MAID in Manitoba was 72
- Most common underlying medical conditions for people who received MAID in Manitoba: cancer (72%); cardiovascular disease (12%); neurodegenerative diseases (8%); respiratory illness (3%); and other illnesses (6%)
- "One aspect of Manitoba's MAID program that distinguishes it from other jurisdictions is the fact that Manitoba has a single, centralized team that assesses requests before applicants submit their written requests. This means there are fewer declined requests in Manitoba compared to other provinces, Health Canada said in its report."

Requests for MAID in Manitoba		
Year	Requested	Received
2016	39	24
2017	142	63
2018	238	138
2019	115	59
Total	534	284

- The Medical Assistance in Dying (Protection for Health Professionals and Others) Act, SM 2017, c 38
 - In force: November 10, 2017
 - Criticism

- Under the federal legislation, no one is compelled to participate in medical assistance in dying. Under Manitoba's Act:
 - an individual can, without disciplinary or employment repercussions, refuse to participate in medical assistance in dying because of personal convictions (s. 2); and
 - a professional regulatory body cannot require its members to participate in medical assistance in dying (s. 3)

- The Public Service Act, Bill 19
 - Introduced on December 2, 2019
 - Part 5 addresses "Political Activities of Core Public Service Employees"
 - Section 58(8) extends Part 5 to legislative staff



Definitions

34 The following definitions apply in this Part. ...

"political activity" means

- (a) carrying on any activity in support of, within or in opposition to a political party;
- (b) carrying on any activity in support of or in opposition to a candidate before or during an election period; or
- (c) seeking nomination as or being a candidate in an election before or during the election period.

Purpose

35 The purpose of this Part is to recognize the right of employees to engage in political activities while maintaining the principle of political impartiality in the core public service.

Permitted activities

36(1) An employee may engage in any political activity so long as it does not impair, or is not perceived as impairing, the employee's ability to perform their duties in a politically impartial manner.

Regulations

36(2) The Lieutenant Governor in Council may make regulations specifying political activities that are deemed to impair the ability of an employee, or any class of employees, to perform their duties in a politically impartial manner.

Factors

36(3) In making regulations, the Lieutenant Governor in Council may take into consideration factors such as the nature of the political activity and the nature of the duties of an employee or class of employees and the level and visibility of their positions.

Thanks for your attention!

Melanie R. Bueckert

Legal Research Counsel, Manitoba Court of Appeal Chair, MBA Public Sector Lawyers' Section

melanie.bueckert@gov.mb.ca