

Charter: Quebec HRC in complete opposition to the government, chairman says

BY CATHERINE SOLYOM, GAZETTE EDUCATION REPORTER NOVEMBER 4, 2013



“It’s a political debate. Right now, the opposition parties seem to be against the charter, so it’s not likely to be adopted,” says Jacques Frémont, chairman of the Quebec Human Rights Commission.

Photograph by: Allen McInnis, Montreal Gazette

MONTREAL — In the days following the release of the Quebec Human Rights Commission’s opinion paper on the proposed Charter of Values, commission chairman Jacques Frémont received hundreds of nasty emails, and even some hate messages sent to his personal email address — anonymously, of course.

But if and when the Quebec government tables an actual bill on the Charter of Values, Frémont, who was appointed unanimously by the National Assembly in June, won’t hesitate to issue another notice against it.

“I guess they regret their vote,” Frémont joked Friday. “I’m not the most popular man in Quebec City right now.”

Frémont was speaking candidly to students at Dawson College about the charter, which he said, from a legal perspective, is a mishmash of concepts — pitting societal “values” against individual rights — but

also from the perspective of someone who's mandate is to protect people from being discriminated against in their daily lives.

In that context, the proposed charter's prohibition of ostentatious religious symbols like hijabs, in the public and para-public realm — for subsidized daycare workers, teachers and nurses, as well as many other professions paid for by the state — was its most problematic aspect.

“That's where it really hurts, and where our position as the commission is in complete opposition to the Quebec government,” Frémont said. “Part of the problem is it all aims at one group — this is systemic discrimination.”

Still, apart from the hate mail, neither the government nor anyone else in favour of the charter has presented the Commission with any opposing legal opinions.

On Friday, in fact, Quebec Justice Minister Bernard St-Arnaud said he would not make public any legal opinions the Quebec government received on the proposed charter.

That the charter would violate the basic freedoms of religion and expression is a no-brainer, Frémont told students. That doesn't mean it couldn't be justified, however, if it was a rational and proportionate solution to an important problem — to ensure the neutrality of the state, for example.

But it's not, Frémont said. “It's a non-answer to a non-problem. It's not because you wear a veil that the state will not be secular.”

Frémont mocked the idea that a student at Dawson or a child in daycare would convert to Islam if he was educated by a woman wearing a hijab, for instance.

“C'mon, it doesn't make sense. It's a complete rupture with the culture of human rights in this country and in North America. It would be the first time in North America that individual rights are set aside in the name of collective rights.”

Asked what the impact of the commission's advice paper has had in the last two weeks, Frémont said he hopes it had a moral impact, and that legislators in Quebec City are reading it carefully.

“But it's a political debate. Right now, the opposition parties seem to be against the charter, so it's not likely to be adopted.”

If it is passed into law, however, Frémont said the only way such a charter could withstand challenges to it based on the Canadian and Quebec Charters of Rights and Freedoms is if the Parti Québécois government invokes the notwithstanding clause in the Canadian Charter of Rights and Freedoms that would shield it from challenges by the courts.

But Bernard Drainville, the principal architect of the charter and PQ minister in charge of democratic institutions, said he had no intention of using the clause, which has historically been invoked to make sure rights are better protected — not suppressed.

Richard Filion, the director-general of Dawson College, then asked Frémont what he thought of criticism that the commission's view was based on the Quebec Charter of Rights and Freedoms, which hadn't evolved since 1975 to reflect the secular nature of the state.

Frémont responded by saying the Universal Declaration of Rights, written in 1948 at the end of the Second World War, was still the most important document in human rights around the world, intended to make sure that never again would minorities rights fall prey to majority rule.

Besides, the court's interpretations of the Quebec charter, like others in Canada and the United States, has evolved: to recognize gay marriage for example.

Frémont, who refused to answer questions on the intentions of the PQ in drafting a charter, nevertheless did not hold back when it came to addressing the PQ's emphasis on the equality of men and women as its justification.

"Just last week — and this is 2013 — we won a case about a woman fired for being pregnant. But I see no one there protesting on the streets for the real rights of women," said Frémont, adding there is still a glass ceiling and huge obstacles to women's rights.

"When I hear someone saying, 'I wouldn't want to be treated in hospital by a woman wearing a hijab,' it is shocking, when you hear about the real problems women have here."

Frémont said he is no longer giving media interviews, but was happy to speak before a group of youths under 25, who are "not living on the same planet as pure laines over 50," and would make it a priority over his five-year mandate to work with young people on real problems, especially on the systemic discrimination faced by disabled people and senior citizens.

So-called problems of reasonable accommodations, on the other hand, made up less than one per cent of the complaints received by the commission, Frémont said.

"Is there a problem with having reasonable accommodations in our society? That's what I don't get. What is the problem with having a kosher meal on an airplane, or Halal food in daycares?"

The hot issue right now, Frémont said, are gyms for women only. On the face of it, it's discrimination. And the commission has received complaints from men who really wanted to go to women's gyms. But Quebecers generally understand when women say they don't feel good about showing their bodies and working out in front of men.

"But if a woman says that because of her religion she doesn't want to swim in the presence of men, they say 'No way!'"

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