A MOMENTOUS CASE FOR RELIGIOUS FREEDOM IN EDUCATION

On Monday, March 24, the Supreme Court of Canada (SCC) will hear the case of Loyola High School, a private Jesuit school in Quebec, against the Quebec government over Loyola's freedom to teach ethics and world religions in a manner faithful to its mission and character as a Jesuit school. The government of Quebec has denied Loyola this freedom.

In 2010, Loyola obtained a favourable ruling from Justice Dugré of the Quebec Superior Court, whose ruling described the Minister of Education, Recreation and Sport's (Minister) refusal to allow Loyola to teach its curriculum instead of the government's as "totalitarian in nature". Justice Dugré observed that parents' rights with respect to the religious and moral education of their children is not limited to their home or church. In fact, Justice Dugré understood that the pursuit of the common good, which is the ministry of education's stated curriculum goal, "necessarily enshrines, from the Catholic perspective, a central place for God and Faith." "In short," he concluded in his judgment, "the ERC program established by the Minister requires of Loyola a pedagogy contrary to the teachings of the Catholic Church."

The government appealed Justice Dugré's ruling, however, and the Quebec Court of Appeal ruled in the government's favour, reasoning that it was an insignificant infringement of religious freedom to require Loyola teachers to teach a course from a "neutral" standpoint and refrain from expressing religious convictions during that particular course. Following this loss in 2012, Loyola appealed to the SCC.

How the SCC resolves this case is of great importance to religious organizations across Canada because this Court's decisions are binding on all other courts. As the SCC official website states:

> "*The importance of the Court's decisions for Canadian society is well recognized. The Court assures uniformity, consistency and correctness in the articulation, development and interpretation of legal principles throughout the Canadian judicial system.*"

Eleven organizations have been granted permission to intervene in the Supreme Court hearing. "Interveners" are not parties to the case itself, but may bring the Court's attention the potential impact of the Court's judgment on those who are not parties to the case and even introduce legal arguments for or against a particular approach to or resolution of an issue that is before the court. The written arguments of the interveners, which have already been submitted to the SCC, are summarized below, following a review of the background of Loyola's case and the arguments of the parties to the case: *Loyola and the Attorney General of Quebec*.

CONTENTS

BACKGROUND OF LOYOLA HIGH SCHOOL'S CASE

The law in Quebec states that a private school "shall be exempt" from compulsory public school curricula provided the school teaches programs "which the Minister of Education, Recreation and Sports judges equivalent." Loyola never asked to be exempt from teaching students about ethics and world religions, courses which the provincial government requires, but only to be allowed to continue to teach this required content through its existing program. Loyola has offered its students an in-depth ethics and world religions course for twenty-five years. The school teaches this subject, as it teaches all subjects, from a Roman Catholic perspective, using Jesuit pedagogy. This is, of course, the school's *raison d'être*.

Loyola, like other private schools, had long relied on the exemption that allowed it to use its curricula in place of government curricula without issue. What changed? In 2005, Quebec's Legislative Assembly passed Bill 95, *An Act to Amend Various Legislative Provisions of a Confessional Nature in the Education Field*, which moved to eliminate from the public school curricula "all provisions of a confessional nature as of July 1, 2008," replacing them with the Ministry's new compulsory Ethics and Religious Culture (ERC) Program. As part of the public system's compulsory curriculum, a private religious school could only teach its own curriculum in place of the ERC Program with the Minister's approval.

The ERC Program has as its stated goals the recognition of others and the pursuit of the common good. According to the Ministry of Education, the Program intends to foster "dialogue and community life in a pluralist society" and therefore "does not espouse any particular set of beliefs or moral references."[1] Loyola's request for an exemption was supported by expert opinions on the merits of its program and an explanation of how it is equivalent to the Ministry's ERC Program, pursuing the Program's goals, and covering its substantive content. But its request was rejected because, as one public servant in the Ministry of Education determined, Loyola's program—unlike the government's—is *confessional* in nature.

ISSUES TO BE ADDRESSED BY THE SUPREME COURT OF CANADA

The issue that has attracted the most outside attention in this case is whether or not Loyola, a not-for-profit religious corporation, can claim for itself *as a legal person* the constitutional guarantee of freedom of religion in the *Canadian Charter of Rights and Freedoms*. The *Canadian Charter* guarantees this freedom to "everyone" in section 2, while Quebec's *Charter of Human Rights and Freedoms* guarantees it to "every person" in section 3.

The possible outcomes are that either, neither, or both of these *Charter*s guarantee religious freedom to legal persons (or at least certain types of legal persons), or the Court could rule that Quebec's *Charter* offers this freedom to legal persons without ruling on whether the *Canadian Charter* does. Such an approach would be sufficient to dispose of this particular case and was the approach of Justice Dugré in the lower court. It would, however, leave the question unanswered for those outside Quebec.

A specific issue at the centre of this case in terms of administrative law, the branch of law governing the actions of the executive branch of government, is whether the Minister's denial of Loyola's exemption request was reasonable. The Minister has been granted legal authority to judge the equivalence of private school curricula and is entitled to some deference from a court reviewing her decision. However, her discretion in applying this criterion is not unlimited; it must be exercised reasonably. Yet whether she decided reasonably depends on the content of Loyola's program compared to the Ministry's, the legal definition of the term "equivalent", and whether or not the Minister duly considered the implications of her decision on religious freedom. These points are addressed below.

1. Quebec Ministry of Education, *Quebec Education Program - Elementary Education: Update May 2008*, *Ethics and Religious Culture*, accessible at https://www7.mels.gouv.qc.ca/DC/ECR/pdf/ecr_elementary.pdf [ERC Elementary]; see also *Quebec Education Program - Secondary Education: Update May 2008*, *Ethics and Religious Culture*, accessible at https://www7.mels.gouv.qc.ca/DC/ECR/pdf/ecr_secondary.pdf [ERC Secondary].

Another administrative law issue that Loyola raises is whether or not the Minister actually applied the correct criterion in assessing Loyola's program. The Minister has some discretion in applying the legal criterion assigned to her—equivalence—but does not have authority to change the criterion itself or introduce new criteria alongside it. Loyola alleges that the Minister assessed confessionality instead of equivalence. If that is true, and if confessionality is irrelevant to assessing equivalence, then the Minister applied the wrong criterion and is entitled to no deference from the Court. This goes to the boundaries of the Minister's legal authority—a question of jurisdiction—and must be reviewed by a court on the more stringent administrative law standard of correctness, as opposed to the more deferential standard of reasonableness.

ARGUMENTS OF THE PARTIES

1. APPELLANT: LOYOLA HIGH SCHOOL AND JOHN ZUCCHI

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a. Loyola enjoys freedom of religion

Loyola argues that it enjoys freedom of religion under both the *Canadian Charter* and Quebec *Charter*. The historical context of religious freedom in Canada reveals the importance of both its corporate and institutional aspects. In the 18th century, the Treaty of Paris and *Quebec Act* guaranteed the free practice of Roman Catholicism in Canada. Catholics were not merely given the right, Loyola writes, "to freely engage in private metaphysical speculation," but "to practice Roman Catholicism in all of its aspects, both individual and corporate." In fact, the protection of religious education was "perhaps the most critical aspect of that corporate religious right" and a central subject of the historic compromise between Canadian Protestants and Catholics at Confederation.

Loyola, then, points to pre-*Charter* Supreme Court jurisprudence supporting the institutional nature of religious freedom. With this as the backdrop for the enactment of both the *Canadian Charter* and Quebec *Charter*, "The framers of these *Charter*s could scarcely have had in mind so restrictive a view as that now being put forward by the Attorney General of Quebec [that religious freedom applies to individuals only]." While the Supreme Court's application of the *Canadian Charter* to date reflects an emphasis on the individual, this is because of the particular facts of prominent cases and not because the corporate dimension of religious freedom was left out of the *Canadian Charter*.

The SCC has repeatedly affirmed that *Canadian Charter* protections are to be interpreted broadly and liberally. To interpret the *Charter* in a way that affords religious institutions less protection than they have had in Canada for some 250 years would violate this interpretive principle. The corporate dimension is and always has been integral to the religious freedom of Catholics and others in Canada.

b. The Minister's decision was unreasonable

Loyola does not challenge the legitimacy of the government's insistence that all children be taught about world religions and ethical decisions. Rather, Loyola argues that the Minister erred in rejecting its request (1) by assuming without evidence that Loyola's program could not be "equivalent" to the Ministry's ERC Program *because it is confessional in nature,* and (2) by failing to consider the impact of denying its request on its rights as a religious school.

With respect to the equivalence criterion, the statutory framework shows that it was the intention of the legislature to permit flexibility in implementing educational programs. Although Quebec had recently "deconfes-

sionalized" the public school system, dividing school boards along linguistic instead of denominational lines, this change was aimed at the public schools only. It did not apply to private schools, which are governed by separate legislation. Therefore, for the Minister to make her decision based on the confessionality of a program is contrary to the stated objectives of the legislation.

In order for the Minister's decision to bear scrutiny, the Minister must not only have applied the right test, but must also have considered the impact of her decision on religious freedom. There is no evidence that anyone in the Ministry involved in making the decision thought about this issue.

The impact on religious freedom is, of course, that the ERC program requires Loyola to abandon its Catholic viewpoint in the teaching of ethics and religion. "One can think of various ways in which the Catholic character of a Catholic school could be infringed," such as prohibiting prayer, but "It is difficult […] to conceive of a worse violation than that of forcing a disengagement from Catholicism in the teaching of ethics and religion themselves." In addition, the ERC Program's "neutral" pedagogy is at odds with the Jesuit belief that reducing any religion to a series of cultural habits and practices is to disrespect that religion and its adherents.

To illustrate what a "neutral" teacher means in practice, Loyola gives the example of a student who expresses approval for legal pornography or a desire to pursue a career as a pornographer. The Jesuit teacher at Loyola could not subject that student's position to criticism from the standpoint of Catholic moral teaching. In fact, the Program requires the teacher to affirm that position or any position that is not illegal. Loyola compares the Attorney General of Quebec's (AGQ) argument that being asked to disengage from a Catholic perspective for just one class is like telling Jews or Muslims not to fret because there is "just a little pork in the stew."

2. RESPONDENT: ATTORNEY GENERAL OF QUEBEC (AGQ)

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a. Loyola does not enjoy freedom of religion

While the SCC has never ruled on this issue, the AGQ makes several arguments for why legal persons in general and Loyola in particular do not possess this right. According to Supreme Court of Canada jurisprudence, the AGQ contends, religion refers to deeply held personal beliefs connected to an individual's spiritual faith and linked to one's self-definition and spiritual fulfilment. In one of the leading cases, the SCC's definition of religious freedom revolved around subjective notions of personal choice. The AGQ draws a contrast with legal persons: "Now a legal person lacks the cognitive faculties required to formulate abstract thoughts, or even emotions, that are essential to the holding of a sincere belief." Consequently, a legal person may not benefit directly from section 2(a) of the *Canadian Charter*. Moreover, Loyola is not only incapable of having thoughts or beliefs, but cannot be presumed to share the religious beliefs of its members.

b. The Minister's denial of an exemption was reasonable

The AGQ argues that the Minister's decision was based on relevant differences between the programs and is therefore reasonable and must stand. In its response to Loyola's exemption request, the Minister explained her decision: the Ministry's Program was non-confessional and Loyola's confessional; Loyola's program does not lead students to reflect on the common good but to adopt a Jesuit outlook on Christian service; Loyola's program studies other religions in relation to the Catholic religion rather than from a neutral, cultural approach; Loyola's program lacks the "practice of dialogue" competency of the Ministry's Program; and Loyola's program proposes the teaching of Catholic religion rather than "accompanying the student in a reflection on religious culture and ethics."The AGQ contends that just the absence of the "practice of dialogue" competency in Loyola's program

justifies the denial of an exemption. Loyola, however, argues that although this "practice of dialogue" was not explicitly dealt with in the curricular documents, it is an easily remedied oversight since Jesuit institutions are famous for the practice of dialogical arts, particularly as applied to the study of religion, and so the Minister's accusation that Loyola fails to teach the practice of dialogue is therefore a show of ignorance.

The AGQ emphasizes that the government possesses the power to determine the list of subjects which must be taught to Quebec students in public and private schools. The ERC Program is compulsory. Its non-confessional nature is "central to its very core". It aims to promote tolerance, dialogue, and mutual understanding. It "in no way imposes on students any adherence to any one religious or philosophical belief system," whereas, "[b]asically, the Appellant [in its program] wishes to teach the doctrine of the Catholic religion and to inculcate in its students the moral reference-points conveyed by that religion." Of course, the AGQ must defend the Minister's consideration of the Loyola program's confessionality. If confessionality were irrelevant, the fact that it weighed on the Minister's decision would render her decision unreasonable. As a rule, she may not base her decisions on irrelevant factors.

3. SUBMISSIONS OF THE INTERVENERS

Together, the interveners address the implications of this case for parental authority over childhood education, for the autonomy of private religious schooling throughout Canada, and for the proper role and scope of state authority in the sphere of education generally. None of the interveners support the AGQ's desired outcome and nearly all support protection for the corporate nature of religious freedom.

THE INTERVENERS

ASSOCIATION OF CHRISTIAN EDUCATORS AND SCHOOLS CANADA (ACES)

ACES is an association of organizations representing 313 confessional, private/independent, elementary and secondary schools and 11 post-secondary confessional educational institutions across Canada.

SCC case law recognizes the primacy of parental authority in deciding how to educate their children; the SCC has characterized the state's role as providing assistance to parents. Coercing Loyola to teach the ERC Program defeats the school's purpose and the reason parents and students choose a particular school.

The SCC has long recognized the unique nature and purpose of religious schools as impacting everything these schools do and not just as adding religious teachings and practices on top of state curriculum. The schools within ACES, like other confessional schools, are founded on religious principles by parents and/or, like Loyola, religious leaders, for religious purposes. They are extensions of the home and manifestations of religious communities. ACES asks the SCC to maintain this perspective.

EVANGELICAL FELLOWSHIP OF CANADA (EFC)

The EFC includes 40 affiliated denominations, 35 educational institutions and nearly 1,000 congregations. Its mission is to unite Evangelicals for impact, influence and identity in ministry and public witness.

The EFC emphasizes the crucial questions around what role, if any, the State ought to play in determining what measure of state interference violates freedom of religion. The EFC submits that the Supreme Court has been unequivocal that it is not the role of the State to

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interpret or judge a religious belief or practice or to determine the degree of State intrusion necessary to violate the person, community or corporation's freedom of religion. Rather, the State is obligated to protect and accommodate religious beliefs or practices.

The Supreme Court has allowed members of the executive branch of government to make decisions impacting *Charter* rights, so long as they adequately account for the impact on the rights affected. In reviewing whether or not the Minister achieved this, the EFC urges the Court to be mindful of the language used in the *Charter* with respect to limiting rights—that is, any limits must be "demonstrably justified in a free and democratic society" under section 1.

A free and democratic society, as the SCC has clearly stated in past cases, is one which accommodates divergent beliefs to the greatest extent possible: "Tolerance of divergent beliefs is a hallmark of a democratic society," the SCC has said. A free and democratic society does not impose majority views upon minorities. The Court must consider whether the Minister's decision can be justified in such a society.

CORPORATION OF THE CATHOLIC ARCHBISHOP OF MONTREAL

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This Corporation is the legal personification of the canonical office of the Archbishop of Montréal. Under Canon Law the Church has a religious vocation in education, as does Loyola, which must adhere to the rules of Canon Law in order to maintain its certification and status as a Catholic school. The Archbishop must certify that Loyola complies with its religious obligations in its teaching programs.

In support of Loyola's argument that it benefits from freedom of religion, the Archbishop emphasizes that Loyola exists as an intermediary institution between parents and the Church for the purpose of delivering education under Canon Law.

As for the Minister's decision, an exercise of state authority "having the impermissible effect of usurping the role of the relevant ecclesiastical authority as regards 'religious education' constitutes an excess of jurisdiction—which violates freedom of religion and may also constitute a breach of the Rule of Law," the Archbishop states.

FAITH FEALTY AND CREED SOCIETY (FFC)

The FFC describes itself in its factum as a registered charity that advances religion by increasing the knowledge of theology related to charity, giving and social conduct. The FFC argues that Loyola should be able to invoke section 2(a) of the *Canadian Charter* to protect the rights of individuals within the corporation, but that corporations cannot and should not enjoy freedom of religion.

Its argument against the recognition of section 2(a) rights for legal persons is the same as that of the Attorney General of Quebec: a corporation lacks a conscience, convictions, or faith. The FFC also warns about the "unforeseen consequences" of affording corporations section 2(a) protection. It also says that it is unclear how courts could apply the legal test from the SCC's *Amselem* decision, which inquires into the sincerity of a claimant's belief, to corporations, or what criteria to use instead.

CATHOLIC CIVIL RIGHTS LEAGUE (CCRL) ET AL.

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The CCRL, in partnership with the Association of Catholic Parents of Quebec, the Faith and Freedom Alliance, and the Association of the Orthodox Coptic Community of Montreal submit that corporations and other legal persons formed for the exercise of religious beliefs are entitled to the protection of religious freedom in the *Canadian Charter*. In other words, there is a sufficiently precise and practical legal test with which to begin an inquiry into whether a corporation's freedom was infringed.

Religious institutions are of crucial importance to the free exercise of religion. Religion is about beliefs, the CCRL explains, but also about relationships. If a community shares a common faith and a way of life that is viewed as a way of living their faith, an infringement of the group's religious belief will impact both those beliefs and the life of their community. This right – the freedom to manifest one's religion 'in community with others' – is at the "heart" of the section 2(a) freedom.

The SCC has held that section 27 of the *Canadian Charter*, which mandates that the *Charter* be interpreted in a manner consistent with the enhancement of the multicultural heritage of Canadians, should be interpreted in its broadest sense to protect collective rights. In any case, it is not useful to discuss the collective and individual aspects of the freedom of religion separately, especially where a law or decision has the effect of undermining "communities of faith" and may result in collective discrimination.

WORLD SIKH ORGANIZATION OF CANADA (WSO)

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The WSO is a non-profit human rights organization with a mandate to promote and protect the interests of Canadian Sikhs and to promote the protection of human rights for all individuals.

The AGQ argues that Loyola cannot claim religious freedom because propagating Catholicism is not its only mission and it admits students of all faiths, an argument that the WSO rebuts by pointing to case law from Germany and the US that protects religious schools. The AGQ has pointed to no decision from these or other countries where a religious school loses its religious freedom merely for teaching secular subject or opens its doors to students of other faiths. In fact, such a rule would be harmful to religious minorities such as Sikhs by giving non-Sikh religious schools strong incentive to exclude Sikhs.

As for the AGQ's argument that Loyola cannot enjoy freedom of religion because as a legal person it is incapable of thought or belief, the WSO contends that this approach would improperly limit the scope of religious freedom to the internal forum of the minds of isolated individuals. This would deny that religion is lived internally and externally, individually and collectively, and through institutions. All of these forms of religious experience require protection. The Quebec government, however, wishes to interfere with the internal ordering of the affairs of religious organizations and their externally oriented activities. For Loyola, as an institution, this means forcing its teachers to set aside their beliefs (internal) and ceasing to offer its own program to students (external).

The WSO also points to international law documents to which Canada is signatory in order to strengthen Loyola's case. The Universal Declaration of Human Rights recognized the communal element of religious freedom and the importance of the freedom to teach. The International Covenant on Civil and Political Rights expressly protects the rights of parents "to ensure the religious and moral education of their children in conformity with their convictions." The SCC has said that the *Canadian Charter* guarantees rights protections at least as strong as those protected by these international agreements.

CHRISTIAN LEGAL FELLOWSHIP (CLF)

The CLF is a national organization of Christian legal professionals and law students. Its submissions to the Court focuses on the nature of the ERC Program and why it violates freedom of religion and (like the WSO above) how international human rights declarations make this violation more concrete.

First, the purpose of the ERC Program is to shape children's thinking and character. The ERC program is based on the underlying philosophy of normative pluralism, which is a refusal to accept a single organizing idea or basic principle.

For example, the introductory page of the ERC course states:

> The knowledge we will acquire and the discussions we will have during the school year may give you the impression that there is no ABSOLUTE RIGHT or WRONG, but rather that there is a relative right and wrong for each INDIVIDUAL and for each SOCIETY. It is sometimes upsetting to live in a world where no absolute TRUTH seems to exist. But don't worry. What is important is to know yourself better by acquiring reliable ethical judgment, and to live in peace with those around you.

As such, the ERC program constitutes indoctrination into a worldview that is at odds with the Christian worldview. Its purpose is not merely to inform but to indoctrinate.

7TH DAY ADVENTIST CHURCH IN CANADA

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It is an established principle under the *Canadian Charter* that laws must have a secular purpose. The 7th Day Adventist Church claims the Minister's decision had a religious motivation and is therefore void.

By considering the confessional nature of Loyola's program, the Minister crossed the line established by section 2(a) of the *Charter*. The Minister acted, at least in part, for a religious purpose. A leading SCC case, *Big M Drug Mart*, established the rule that the government may not compel anyone to perform or abstain from performing otherwise harmless acts because of the religious significance of those acts.

The Ministerial Decision is like blasphemy laws in non-free societies, in that they prohibit expressions of religious opinion in the classroom. Blasphemy laws are characterized by their prohibition against religious opinions offensive to the government of the day and it is striking how often they have been used to repress free speech in the classroom.

Finally, the Minister's decision violated the rule from the SCC's ruling in *Trinity Western University* that government should not consider the sectarian nature of a religious school or its classes when making decisions regarding the regulatory interests of government.

HOME SCHOOL LEGAL DEFENSE ASSOCIATION OF CANADA (HSLDA)

The HSLDA has thousands of member families across Canada and its mission is to protect the right of parents to direct the education of their children. The HSLDA claims up front in its submissions that the outcome of this case will depend on the interpretation the SCC gives to "equivalency". The importance of the interpretation of this term is not limited to private schools. This criterion also applies to home education.

Since the legislator did not define the term "equivalent", it is logical to refer to the common usage proposed by dictionaries. *Black's Law Dictionary* provides the following definition of equivalent: "equal in value, force, measure,

volume, power, and effect or having equal or corresponding import, meaning or significance." The HLSDA draws on several cases to demonstrate that equivalent does not mean identical. The test should be whether the substitute program achieves the required objectives and competencies, not how it achieves them.

Those who choose to homeschool their children do not want to simply do "public school at home". Rather, the freedom to homeschool—like the freedom to choose private schools—reflects the longstanding respect in Canadian law for educational diversity as a source of enrichment for Canadian society. Forcing parents to adopt the non-confessional approach to teaching ethics and world religions would be contrary to the Quebec *Charter* and *Civil Code*, and enforcing it would seem to require home inspectors or the removal of the right to homeschool one's children altogether.

CANADIAN COUNCIL OF CHRISTIAN CHARITIES (CCCC)

CCCC submits that the AGQ's position is wrong in law and in principle and that a corporate body, such as the Appellant, benefits from freedom of religion. Like other interveners, CCCC points to Canadian history, political traditions, and leading case law to support the corporate element of religious freedom.

More than for protecting personal convictions, religious freedom must involve and the courts should affirm, says the CCCC a recognition of the *intrinsic goods of religions*. Realizing the intended benefits of religious freedom requires protecting its communal dimensions: "Religion without group recognition is a largely empty shell and the fullness of rights is the essence of an appropriate respect for the Constitution."

If that is true, why has Canadian jurisprudence not yet clearly and authoritatively articulated the collective aspect of religious freedom? "[B]ecause of the fact that, until recently, there has been no sustained attack upon that right in this country to warrant such analysis."

Failing to protect religious associations means eviscerating religious freedom itself. CCCC stresses that preserving the distinction between the role and purpose of the state and civic society is imperative because civic society, which includes religious communities, provides a necessary buffer against the capricious and potentially coercive nature of the state.

Importantly, the CCCC also suggests what the content of a collective or institutional religious liberty should include. It is not merely the aggregate of individual members' rights, but an independent right to determine and administer their own internal religious affairs without state interference and to exercise moral authority over members.

CANADIAN CIVIL LIBERTIES ASSOCIATION (CCLA)

While the CCLA can often be found on the opposite side of Catholics and other Christians on social issues, it is noteworthy that this organization is solidly on Loyola's side in this appeal.

The CCLA explains that the conceptual hurdles of affording section 2(a) protection to a religious entity should not operate to prevent freedom of religion and correlative fundamental freedoms such as freedom of expression and association from accomplishing their true purpose. Their true purpose, as the SCC has said, includes allowing people to establish and maintain communities of faith.

The CCLA agrees with the other interveners that introducing a test for what types of corporations may benefit from freedom of religion is not only possible, it's straightforward. The CCLA submits that a corporation may enjoy freedom of religion if, in light of its purpose, the corporate body primarily serves as a vehicle through which its individual members exercise their own freedom of religion, expression, and association. In this sense, there is a parallel to the Supreme Court's treatment of the freedoms of labour unions.

Supreme Court jurisprudence demonstrates that various fundamental freedoms are intimately related and can be exercised simultaneously. This is particularly true in Loyola's case since freedom of expression, much like freedom of association, is vital to the exercise and meaningful practice of its religion.

Finally, the CCLA carefully addresses the administrative law issues at play in this case. Two years ago, in a case called *Dor*é, the Supreme Court held that a court reviewing a decision by a member of the executive branch of government impacting *Charter* rights can simply ask whether the decision in question was reasonable. Before *Dor*é, if a *Charter* right were interfered with by an administrative decision, a detailed inquiry into whether the interference was "demonstrably justified in a free and democratic society" was required.

The CCLA, like the Evangelical Fellowship of Canada, stresses that this jurisprudential development should not result in diluting the importance of fundamental rights in the administrative decision-making process or the rigor with which these rights are protected. Loyola's appeal is thus an excellent opportunity for the SCC to reiterate that this change in approach does not dilute the importance of fundamental rights.

CONCLUSION

This case is not simply about the overreach of Quebec's government or the freedoms of Catholic schools, but about the limits to which the state can go to dictate what children are taught and how they are taught within independent religious schools across Canada. *Loyola* is also about religion in public life and how the Supreme Court will interpret the *Canadian Charter* and Quebec *Charter.* The Quebec government advocates a view that permits the state to adopt a closed secularism, pushing religion behind the doors of churches and homes.

The Supreme Court will hear oral arguments on Monday, March 24. The parties to the case will have an hour each to present arguments. Interveners that have been granted permission—all of those mentioned above except the CCCC, HSLDA, FFC and ACES—will have ten minutes each for oral arguments. Immediately following the hearings, the Supreme Court Justices will meet and deliberate to form a tentative decision. The final, written judgment, however, is normally expected to take several months.