

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM TWO JUDGMENTS OF THE QUEBEC COURT OF APPEAL)

BETWEEN:

**COMMISSION DES DROITS DE LA PERSONNE
ET DES DROITS DE LA JEUNESSE**

APPELLANT
(Respondent)

- and -

BOMBARDIER INC.
(Bombardier Aerospace Training Center)

RESPONDENT
(Appellant)

- and -

JAVED LATIF

RESPONDENT
(Respondent)

AND BETWEEN:

JAVED LATIF

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RESPONDENT
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INTERVENER'S FACTUM
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(Pursuant to Rules 37 and 42 of the *Rules of the Supreme Court of Canada*)

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**CANADIAN CIVIL LIBERTIES ASSOCIATION
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NATIONAL COUNCIL OF CANADIAN MUSLIMS
CANADIAN MUSLIM LAWYERS ASSOCIATION
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File Number: 35625

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PART I: OVERVIEW

1. Javed Latif is a naturalized Canadian citizen of Pakistani origin and he is Muslim. He retains his dual citizenship. He has been a certified pilot with both American and Canadian licenses for over 25 years. In 2004, he applied to Bombardier for a pilot training program that would allow him to operate a Challenger 604 aircraft. Bombardier's Aerospace Training Center has two training facilities, one located in Montreal, and the other in Dallas, Texas. Despite his previous training in the U.S., Mr. Latif was denied security clearance by U.S. authorities in 2004, which denied him training by the U.S. Federal Aviation Agency, on the grounds that he constituted a national security threat. Mr. Latif could not appeal the denial as there was no procedure for non-U.S. citizens, and was therefore denied training by Bombardier under his Canadian pilot's license, on the grounds that he was also considered as a threat to Canadian aviation.
2. He filed a complaint with the *Commission des droits de la personne et des droits de la jeunesse* for discrimination in employment based on ethnic or national origin. The Commission brought the case before the Quebec Human Rights Tribunal which ruled that there was a *prima facie* case of discrimination as Bombardier's denial of Mr. Latif's application relied solely on U.S. authorities' national security-based decision and in part, on business considerations, including the possible revocation of its U.S. training certification, and one particular manager's opinion. The Tribunal ordered compensation for lost salaries, moral and punitive damages, and the cessation of the company's discriminatory practice.
3. Bombardier appealed to the Court of Appeal, which struck down the Tribunal decision on several grounds.¹ The Court found no clear evidence of differential treatment directed at Mr. Latif since Bombardier relied on official and legitimate information from U.S. authorities to reach its decision. The Court also ruled that while there was no need to establish an intent to discriminate, a "causal link" ("lien causal") between the challenged exclusionary practice and a prohibited ground of discrimination is an "essential ingredient to a conclusion of discrimination"², which was not made in this case.³ More specifically,

¹ *Bombardier inc. c. Latif*, 2011 QCCA 1611, Intervener's Book of Authorities, hereinafter « I.B. », vol. I, Tab 2.

² Ibid, At para. 98 and 100.

³ Ibid, At para. 103 and 142.

the Court noted that the U.S. security clearance applies to all non-U.S. citizens and did not “specifically target” Arabs and Muslims.⁴ In the Court’s opinion, the Tribunal erred by relying on circumstantial evidence of discrimination or racial profiling, because the evidence in the case did not include facts that are “serious, precise and concordant,” as required by Quebec civil law.⁵ In fact, the Court clearly states that evidence cannot result from suspicions or speculations⁶ and that the expert testimony in support of the plaintiffs’ claim lacked “pertinence and probative value.” In other words, the Court stated the circumstantial evidence to allow for an inference of discrimination and profiling in this case does not hold.⁷

PART II: POSITION CONCERNING THE QUESTIONS IN ISSUE

4. CRARR submits the two following questions:

- 1) Does the requirement of a “causal link” between a challenged discriminatory act or practice and a prohibited ground of discrimination, especially discrimination based on race or ethnicity, effectively constitute the requirement of proving an intent to discriminate and direct discrimination?
- 2) Is the requirement of such a “causal link” inconsistent with prevailing contemporary standards of evidence of discrimination in Canada whereby it is only necessary to prove that a prohibited ground of discrimination is a factor in the challenge act or practice?

5. In respect of both questions, the answer is “Yes” and that the “causal link” requirement should be struck down.

PART III: STATEMENT OF ARGUMENT

6. The evidentiary requirements for claimants of equality and victims of discrimination should be the contemporary burden of proving that a prohibited ground of discrimination is a factor in the contested act or situation.

⁴ Ibid, At para. 125.

⁵ Ibid, At para. 141 and 142.

⁶ Ibid, At para. 106.

⁷ Ibid, At para. 139.

7. A clear and consistent test is required to ensure fairness to victims of discrimination as well as to those accused of discrimination. Discrimination does not change depending on the province in which the action is brought; the test likewise should be the same. A harmonized and coherent national approach to guide both plaintiffs and defendants is necessary.

A. A BROAD, LIBERAL, AND INCLUSIVE INTERPRETATION OF THE CHARTER IS REQUIRED

8. This Court has consistently ruled that *Charter* claims should be interpreted with a "broad" and "liberal" approach,⁸ and in a "generous and purposive manner."⁹ This holds particularly true for situations of potential racial and ethnic discrimination, since it is often highly difficult to provide direct evidence for racism in its many multi-faced, systemic and subtle forms.

9. This Court has held that:

The Charter is designed and adopted to guide and serve the Canadian community for a long time. Narrow and technical interpretation, if not modulated by a sense of the unknowns of the future, can stunt the growth of the law and hence the community it serves.¹⁰

10. Especially in regards to racial prejudice, the Supreme Court has mentioned the "preconceptions and unchallenged assumptions that unconsciously shape the daily behavior of individuals" and how they are difficult to identify and set aside (*R. v Williams*¹¹). The Court has held that "racism exists within the interstices of our institutions... and is a product of individual attitudes and beliefs... and it fosters and legitimizes those assumptions and stereotypes" (*R. v Parks*¹²) and our legal system needs to take that into consideration when deciding the tests to examine a case.

⁸ *R. v Big M. Drug Mart Ltd.*, [1985] 1 S.C.R. 295, **I.B.**, vol. II, Tab 11.

⁹ *Greater Vancouver Transportation Authority v. Canadian Federation of Students — British Columbia Component*, 2009 SCC 31, [2009] 2 S.C.R. 295, at para. 27, **I.B.**, vol. I, Tab 4.

¹⁰ *Law Society of Upper Canada v. Skapinker*, [1984] 1 S.C.R. 357, at para. 11, **I.B.**, vol. I, Tab 6.

¹¹ *R. v Williams*, [1998] 1 S.C.R. 1128, **I.B.**, vol. II, Tab 14.

¹² *R. v Parks*, 15 O.R. (3d) 324, [1993] O.J. No. 2157, **I.B.**, vol. II, Tab 12.

B. THE INCORRECT DISCRIMINATION TEST AND REQUIREMENT OF A “CAUSAL LINK”

11. Both the Tribunal and the Court of Appeal identified three elements for assessing a claim of discrimination under s. 10 of the *Quebec Charter*. These three elements are elaborated in *Moore v British Columbia (Education)*.¹³ Justice Abella stated that to demonstrate *prima facie* discrimination, claimants must show:

- 1) That they have a protected or equivalent characteristic;
- 2) That they experience an adverse impact, and
- 3) That the characteristic was a factor.

After this analysis, the burden shifts to the respondent to “justify the conduct or practice ... if it cannot be justified, discrimination will be found to occur.”¹⁴

12. By insisting on a “lien causal” between the prohibited ground of discrimination and the exclusionary practice in the present case, the Court of Appeal of Quebec makes a direct reference to the notion of “cause efficiente” in Quebec civil law and risks allowing a disastrous return to the standard of yore requiring proof of an *intention to discriminate*, which has already been rejected by this Courts since *Simpsons-Sears*¹⁵ and *Andrews*.¹⁶ Allowing with this interpretation works against *Charter* norms, frustrates the essential purpose of anti-discrimination legislation and disadvantages plaintiffs because it does not allow for effective protection from indirect or systemic discrimination.
13. In cases of racial discrimination and profiling, a requirement of evidence of intent and of direct evidence of discrimination is particularly difficult and egregiously counterproductive for racialized claimants and victims of this practice because of the complex, subtle, subconscious and often institutionalized nature of racism.¹⁷ For this reason, courts have

¹³ *Moore v. British Columbia (Education)*, 2012 SCC 61, [2012] 3 S.C.R. 360, I.B., vol. I, Tab 7.

¹⁴ *Supra*, at para. 33, I.B., vol. I, Tab 7.

¹⁵ *Ontario Human Rights Commission and O'Malley v. Simpsons-Sears Ltd.*, [1985] 2 S.C.R. 536, I.B., vol. I, Tab 8.

¹⁶ *Andrews v. Law Society of British Columbia*, [1989] 1 SCR 143, at p. 174-175, I.B., vol. I, Tab 1.

¹⁷ *R. v. S.(R.D.)*, 1997 CanLII 324 (SCC), [1997] 3 S.C.R. 484, at para. 46, I.B., vol. II, Tab 13; and *R. v Parks*, 15 O.R. (3d) 324, [1993] O.J. No. 2157, I.B., vol. II, Tab 12.

held that the general test or standard is circumstantial evidence that allows for an inference of discrimination.¹⁸

14. *Peel Law Association v Pieters*¹⁹ established that the requirement that complainants establish a “causal nexus” is not present in human rights jurisprudence. In that case, the Ontario Court Appeal reversed the Divisional Court decision in a racial profiling case by invalidating one of the four criteria used by the lower court in its test of discrimination, namely “a causal nexus” between the race of Mr. Pieters and Mr. Noble, two Black lawyers, and a librarian’s demand to see their ID to allow them to remain in the lawyer’s lounge:

[54] The Court did not indicate from where it derived this test. The term “causal nexus” does not appear in *Tranchemontagne*, which the Divisional Court cited before setting out this test. The test is not one that human rights tribunals have traditionally applied. (...)

[59] While the word “nexus” is perfectly acceptable, I think it preferable to continue to use the terms more commonly used in the jurisprudence developed under the *Code*. All that is required is that there be a “connection” between the adverse treatment and the ground of discrimination. The ground of discrimination must somehow be a “factor” in the adverse treatment.

[60] I do not think it acceptable, however, to attach the modifier “causal” to “nexus”. Doing so seems to me to elevate the test beyond what the law requires. The Divisional Court’s requirement of a “causal nexus” or a “causal link” between the adverse treatment and a prohibited ground seems counter to the evolution of human rights jurisprudence, which focuses on the discriminatory effects of conduct, rather than on intention and direct cause.

[61] I conclude that the Divisional Court erred in law by applying an incorrect and stricter test of discrimination in deciding this case (...)

C. THE THIN LINE BETWEEN “CAUSAL LINK” AND INTENT

15. Requiring the higher threshold of “casual link” instead of simply a connection, or that a prohibited ground be a “factor” in cases of discrimination, imprudently revives the already-rejected test of *intent*. The test of causality between the ground of discrimination

¹⁸ *Shaw v. Phipps*, 2012 ONCA 155, at para. 33-34, **I.B., vol. II, Tab 15**.

¹⁹ *Peel Law Association v. Pieters*, 2013 ONCA 396, 116 O.R. (3d) 81, 306 O.A.C. 314, **I.B., vol. II, Tab 9**.

and the discriminatory treatment inadvertently requires a much narrower and more precise evidentiary focus on intention and direct cause, rather than on the discriminatory effects of a challenged conduct and social science evidence that is extremely pertinent, if not essential, to the exercise of establishing an inference of discrimination through circumstantial evidence.²⁰

16. It is not, however, the first time that the courts in Quebec apply the oblique test of intent or causal link. In her detailed critical review of the courts' at times unconscious, at times conscious or even "political" application of the "causal link" notion, prominent in the *Quebec Civil Code's* provisions on contractual and extracontractual responsibility,²¹ to discrimination cases in Quebec, law professor Louise Langevin highlights the civilist trajectory undertaken by Quebec courts in interpreting the *Quebec Charter of Human Rights and Freedoms*. The quandary lies essentially in importing the degree of intensity of causality, transforming "en genre de succédané à la preuve de l'intention de discriminer,"²² which led to this Court in entrenching, in *Brossard (Ville de) c. Québec (Commission des droits de la personne)* the notion of the "cause efficiente" as the causal link between a prohibited ground and the discriminatory act.²³ In her view, the notion of "causalité efficiente" under the civilist doctrine constitutes a legal obstacle to cases of systemic discrimination.
17. Professor Langevin's documents the Quebec civilist influence on Quebec courts in interpreting the *Quebec Charter* in numerous cases in the 1980s and 1990s, which effectively and explicitly entrenches the requirement of proving intent under the guise of

²⁰ Béatrice Vizkelety, "Revisiting the Prima Facie Case and Recognizing Stereotypes Based on Unconscious Bias in Racial and Ethnic Discrimination" (2013), 20 *Charter and Human Rights Litigation*, Federated Press, 1755, p. 1761-1762, R.S.A., at pp. 51-53, **I.B., vol. II, Tab 18**.

²¹ *Code civil du Québec*, RLRQ c C-1991, art. 1457, **Intervener's Factum**, p. 17.

²² Louise Langevin, «Réflexion sur le lien de causalité en matière de discrimination : une difficile intégration», (1996) 22 *Queen's L.J.* 51, at p. 63, **I.B., vol. II, Tab 17**.

²³ *Brossard c. Québec* (Comm. des Droits de la Personne), [1988] 2 R.C.S. 279, at para. 302, **I.B., vol. I, Tab 3**.

- evidentiary criteria such as “le seul facteur,”²⁴ the fact of being “animé d’un motif discriminatoire,”²⁵ the “facteur déterminant,”²⁶ and the “cause.”²⁷
18. Since the Ontario Court of Appeal in *Pieters* expressly repudiates the unacceptable notion of a “causal nexus” in proving discrimination and profiling, CRARR submits that the Supreme Court has a historic opportunity, with this appeal, to end the more formalistic and restrictive civilist “causal link” test as retained by the Court of Appeal of Quebec that directly reverts to the rejected and rigid intent-based conception of discrimination.
 19. The objective is not to set in motion a collision between the *Quebec Civil Code* and Quebec’s civilist tradition with the constantly evolving dimensions of the *Canadian Charter of Rights and Freedoms* and the common-law tradition on equality in particular, but rather to create a more perfect harmony between the two dominant legal cultures in Canada in order to provide more effective and equal protection to victims of race and other discrimination, be they in Quebec or in the rest of Canada, and be they French-speaking or English-speaking.
 20. In doing so, this Court can help encourage the Quebec civilist tradition, and civil law practitioners to aspire to and achieve a more “liberal,” “purposive” and “generous” response of its own to the needs of victims of discrimination when they seek effective protection under the *Quebec Charter*. To quote Lord Wilberforce in *Minister of Home Affairs v. Fisher*, the ultimate result should be “...a generous interpretation avoiding what has been called “the austerity of tabulated legalism,” suitable to give individuals the full measure of the fundamental rights and freedoms referred to.”²⁸

²⁴ Supra note 19, at p. 64, **I.B.**, vol. **II**, Tab 9.

²⁵ *Québec (Commission des droits de la personne) c. CEGEP Saint-Jean-sur-Richelieu*, [1984] R.D.J., at para. 78 (C.A.) as cited in Langevin, at p. 68, note 55.

²⁶ *Québec (Commission des droits de la personne) c. Lalonde*, (1992) J.E. 92-1629, J.T.D.P.Q., no 10 (T.D.P.Q.) R.D.J., **I.B.**, vol. **II**, Tab 10, as cited in Langevin, at p. 74, note 81.

²⁷ *Ville de Québec c. Commission des droits de la personne du Québec*, [1989] R.J.Q. 831, 1989 CanLII 613 (QC CA), at p. 230, application for leave to the Supreme Court denied. The case is known as “L’affaire des matrones”, **I.B.**, vol. **II**, Tab 16.

²⁸ As cited in *Hunter et al. v. Southam Inc.*, [1984] 2 S.C.R. 145, at p. 156, **I.B.**, vol. **I**, Tab 5.

21. CRARR therefore respectfully urges the Court to adopt a consistent, uniform and unequivocal evidentiary requirement for assessing discrimination claims through the establishment of a harmonized and coherent national approach to guide all equality-seeking individuals and groups, particularly victims of racial discrimination, as well as all courts and tribunals in Quebec, and in the rest of Canada, in their common pursuit of the equal protection and benefit of the law.

PART IV: COSTS

22. CRARR does not seek its costs in this appeal. It is requested that CRARR should not be ordered to pay the whole or any part of the costs of this appeal.

PART V: REQUEST FOR ORAL SUBMISSIONS

23. CRARR requests permission to make oral submissions and 10 minutes of time.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at Montreal, Quebec, this 10th day of December 2014

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PART VI – TABLE OF AUTHORITIES

Cases	Paragraph(s)
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PART VII – STATUTES OR REGULATIONS**Statute / Regulation**

Quebec Charter of Human Rights and Freedoms, CQLR c C-12, section 10

Civil Code of Québec, LRQ, c C-1991, art. 1457

chapitre C-12

CHARTRE DES DROITS ET LIBERTÉS DE LA PERSONNE

CONSIDÉRANT que tout être humain possède des droits et libertés intrinsèques, destinés à assurer sa protection et son épanouissement;

Considérant que tous les êtres humains sont égaux en valeur et en dignité et ont droit à une égale protection de la loi;

Considérant que le respect de la dignité de l'être humain, l'égalité entre les femmes et les hommes et la reconnaissance des droits et libertés dont ils sont titulaires constituent le fondement de la justice, de la liberté et de la paix;

Considérant que les droits et libertés de la personne humaine sont inséparables des droits et libertés d'autrui et du bien-être général;

Considérant qu'il y a lieu d'affirmer solennellement dans une Charte les libertés et droits fondamentaux de la personne afin que ceux-ci soient garantis par la volonté collective et mieux protégés contre toute violation;

À ces causes, Sa Majesté, de l'avis et du consentement de l'Assemblée nationale du Québec, décrète ce qui suit:

PARTIE I LES DROITS ET LIBERTÉS DE LA PERSONNE

CHAPITRE I LIBERTÉS ET DROITS FONDAMENTAUX

1. Tout être humain a droit à la vie, ainsi qu'à la sûreté, à l'intégrité et à la liberté de sa personne.

Il possède également la personnalité juridique.

1975, c. 6, a. 1; 1982, c. 61, a. 1.

2. Tout être humain dont la vie est en péril a droit au secours.

Toute personne doit porter secours à celui dont la vie est en péril, personnellement ou en obtenant du secours, en lui apportant l'aide physique nécessaire et immédiate, à moins d'un risque pour elle ou pour les tiers ou d'un autre motif raisonnable.

1975, c. 6, a. 2.

CHAPITRE I.1

DROIT À L'ÉGALITÉ DANS LA RECONNAISSANCE ET L'EXERCICE DES DROITS ET LIBERTÉS

10. Toute personne a droit à la reconnaissance et à l'exercice, en pleine égalité, des droits et libertés de la personne, sans distinction, exclusion ou préférence fondée sur la race, la couleur, le sexe, la grossesse, l'orientation sexuelle, l'état civil, l'âge sauf dans la mesure prévue par la loi, la religion, les convictions politiques, la langue, l'origine ethnique ou nationale, la condition sociale, le handicap ou l'utilisation d'un moyen pour pallier ce handicap.

Il y a discrimination lorsqu'une telle distinction, exclusion ou préférence a pour effet de détruire ou de compromettre ce droit.

1975, c. 6, a. 10; 1977, c. 6, a. 1; 1978, c. 7, a. 112; 1982, c. 61, a. 3.

10.1. Nul ne doit harceler une personne en raison de l'un des motifs visés dans l'article 10.

1982, c. 61, a. 4.

11. Nul ne peut diffuser, publier ou exposer en public un avis, un symbole ou un signe comportant discrimination ni donner une autorisation à cet effet.

1975, c. 6, a. 11.

12. Nul ne peut, par discrimination, refuser de conclure un acte juridique ayant pour objet des biens ou des services ordinairement offerts au public.

1975, c. 6, a. 12.

13. Nul ne peut, dans un acte juridique, stipuler une clause comportant discrimination.

Une telle clause est sans effet.

1975, c. 6, a. 13; 1999, c. 40, a. 46.

14. L'interdiction visée dans les articles 12 et 13 ne s'applique pas au locateur d'une chambre située dans un local d'habitation, si le locateur ou sa famille réside dans le local, ne loue qu'une seule chambre et n'annonce pas celle-ci, en vue de la louer, par avis ou par tout autre moyen public de sollicitation.

1975, c. 6, a. 14.

15. Nul ne peut, par discrimination, empêcher autrui d'avoir accès aux moyens de transport ou aux lieux publics, tels les établissements commerciaux, hôtels, restaurants, théâtres, cinémas, parcs, terrains de camping et de caravanning, et d'y obtenir les biens et les services qui y sont disponibles.

chapter C-12

CHARTER OF HUMAN RIGHTS AND FREEDOMS

WHEREAS every human being possesses intrinsic rights and freedoms designed to ensure his protection and development;

Whereas all human beings are equal in worth and dignity, and are entitled to equal protection of the law;

Whereas respect for the dignity of human beings, equality of women and men, and recognition of their rights and freedoms constitute the foundation of justice, liberty and peace;

Whereas the rights and freedoms of the human person are inseparable from the rights and freedoms of others and from the common well-being;

Whereas it is expedient to solemnly declare the fundamental human rights and freedoms in a Charter, so that they may be guaranteed by the collective will and better protected against any violation;

Therefore, Her Majesty, with the advice and consent of the National Assembly of Québec, enacts as follows:

PART I HUMAN RIGHTS AND FREEDOMS

CHAPTER I FUNDAMENTAL FREEDOMS AND RIGHTS

1. Every human being has a right to life, and to personal security, inviolability and freedom.

He also possesses juridical personality.

1975, c. 6, s. 1; 1982, c. 61, s. 1.

2. Every human being whose life is in peril has a right to assistance.

Every person must come to the aid of anyone whose life is in peril, either personally or calling for aid, by giving him the necessary and immediate physical assistance, unless it involves danger to himself or a third person, or he has another valid reason.

1975, c. 6, s. 2.

CHAPTER I.1**RIGHT TO EQUAL RECOGNITION AND EXERCISE OF RIGHTS AND FREEDOMS**

10. Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.

Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right.

1975, c. 6, s. 10; 1977, c. 6, s. 1; 1978, c. 7, s. 112; 1980, c. 11, s. 34; 1982, c. 61, s. 3.

10.1. No one may harass a person on the basis of any ground mentioned in section 10.

1982, c. 61, s. 4.

11. No one may distribute, publish or publicly exhibit a notice, symbol or sign involving discrimination, or authorize anyone to do so.

1975, c. 6, s. 11.

12. No one may, through discrimination, refuse to make a juridical act concerning goods or services ordinarily offered to the public.

1975, c. 6, s. 12.

13. No one may in a juridical act stipulate a clause involving discrimination.

Such a clause is without effect.

1975, c. 6, s. 13; 1999, c. 40, s. 46.

14. The prohibitions contemplated in sections 12 and 13 do not apply to the person who leases a room situated in a dwelling if the lessor or his family resides in such dwelling, leases only one room and does not advertise the room for lease by a notice or any other public means of solicitation.

1975, c. 6, s. 14.

15. No one may, through discrimination, inhibit the access of another to public transportation or a public place, such as a commercial establishment, hotel, restaurant, theatre, cinema, park, camping ground or trailer park, or his obtaining the goods and services available there.

1975, c. 6, s. 15.



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CODE CIVIL DU QUÉBEC

DISPOSITION PRÉLIMINAIRE

Le Code civil du Québec régit, en harmonie avec la Charte des droits et libertés de la personne (chapitre C-12) et les principes généraux du droit, les personnes, les rapports entre les personnes, ainsi que les biens.

Le code est constitué d'un ensemble de règles qui, en toutes matières auxquelles se rapportent la lettre, l'esprit ou l'objet de ses dispositions, établit, en termes exprès ou de façon implicite, le droit commun. En ces matières, il constitue le fondement des autres lois qui peuvent elles-mêmes ajouter au code ou y déroger.

LIVRE PREMIER

DES PERSONNES

TITRE PREMIER

DE LA JOUISSANCE ET DE L'EXERCICE DES DROITS CIVILS

1. Tout être humain possède la personnalité juridique; il a la pleine jouissance des droits civils.

1991, c. 64, a. 1.

2. Toute personne est titulaire d'un patrimoine.

Celui-ci peut faire l'objet d'une division ou d'une affectation, mais dans la seule mesure prévue par la loi.

1991, c. 64, a. 2.

3. Toute personne est titulaire de droits de la personnalité, tels le droit à la vie, à l'inviolabilité et à l'intégrité de sa personne, au respect de son nom, de sa réputation et de sa vie privée.

Ces droits sont incessibles.

1991, c. 64, a. 3.

4. Toute personne est apte à exercer pleinement ses droits civils.

Dans certains cas, la loi prévoit un régime de représentation ou d'assistance.

1991, c. 64, a. 4.

1991, c. 64, a. 1454.

1455. Le transfert d'un droit réel portant sur un bien immeuble n'est opposable aux tiers que suivant les règles relatives à la publicité des droits.

1991, c. 64, a. 1455.

II. — *Des fruits et revenus et des risques du bien*

1456. L'attribution des fruits et revenus et la charge des risques du bien qui est l'objet d'un droit réel transféré par contrat sont principalement réglées au livre Des biens.

Toutefois, tant que la délivrance du bien n'a pas été faite, le débiteur de l'obligation de délivrance continue d'assumer les risques y afférents.

1991, c. 64, a. 1456.

CHAPITRE TROISIÈME DE LA RESPONSABILITÉ CIVILE

SECTION I DES CONDITIONS DE LA RESPONSABILITÉ

§ 1. — *Dispositions générales*

1457. Toute personne a le devoir de respecter les règles de conduite qui, suivant les circonstances, les usages ou la loi, s'imposent à elle, de manière à ne pas causer de préjudice à autrui.

Elle est, lorsqu'elle est douée de raison et qu'elle manque à ce devoir, responsable du préjudice qu'elle cause par cette faute à autrui et tenue de réparer ce préjudice, qu'il soit corporel, moral ou matériel.

Elle est aussi tenue, en certains cas, de réparer le préjudice causé à autrui par le fait ou la faute d'une autre personne ou par le fait des biens qu'elle a sous sa garde.

1991, c. 64, a. 1457.

1458. Toute personne a le devoir d'honorer les engagements qu'elle a contractés.

Elle est, lorsqu'elle manque à ce devoir, responsable du préjudice, corporel, moral ou matériel, qu'elle cause à son cocontractant et tenue de réparer ce préjudice; ni elle ni le cocontractant ne peuvent alors se soustraire à l'application des règles du régime contractuel de responsabilité pour opter en faveur de règles qui leur seraient plus profitables.

1991, c. 64, a. 1458.

§ 2. — *Du fait ou de la faute d'autrui*



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This document has official status.

CIVIL CODE OF QUÉBEC

PRELIMINARY PROVISION

The Civil Code of Québec, in harmony with the Charter of human rights and freedoms (chapter C-12) and the general principles of law, governs persons, relations between persons, and property.

The Civil Code comprises a body of rules which, in all matters within the letter, spirit or object of its provisions, lays down the *jus commune*, expressly or by implication. In these matters, the Code is the foundation of all other laws, although other laws may complement the Code or make exceptions to it.

BOOK ONE

PERSONS

TITLE ONE

ENJOYMENT AND EXERCISE OF CIVIL RIGHTS

1. Every human being possesses juridical personality and has the full enjoyment of civil rights.

1991, c. 64, a. 1.

2. Every person is the holder of a patrimony.

It may be the subject of a division or of an appropriation to a purpose, but only to the extent provided by law.

1991, c. 64, a. 2; I.N. 2014-05-01.

3. Every person is the holder of personality rights, such as the right to life, the right to the inviolability and integrity of his person, and the right to the respect of his name, reputation and privacy.

These rights are inalienable.

1991, c. 64, a. 3.

4. Every person is fully able to exercise his civil rights.

In certain cases, the law provides for representation or assistance.

1991, c. 64, a. 4.

CHAPTER III
CIVIL LIABILITY

SECTION I
CONDITIONS OF LIABILITY

§ 1. — *General provisions*

1457. Every person has a duty to abide by the rules of conduct incumbent on him, according to the circumstances, usage or law, so as not to cause injury to another.

Where he is endowed with reason and fails in this duty, he is liable for any injury he causes to another by such fault and is bound to make reparation for the injury, whether it be bodily, moral or material in nature.

He is also bound, in certain cases, to make reparation for injury caused to another by the act or fault of another person or by the act of things in his custody.

1991, c. 64, a. 1457; 2002, c. 19, s. 15; I.N. 2014-05-01.

1458. Every person has a duty to honour his contractual undertakings.

Where he fails in this duty, he is liable for any bodily, moral or material injury he causes to the other contracting party and is bound to make reparation for the injury; neither he nor the other party may in such a case avoid the rules governing contractual liability by opting for rules that would be more favourable to them.

1991, c. 64, a. 1458; I.N. 2014-05-01.