

Submission Regarding Systemic Discrimination against Religious Minorities in Outremont

Submitted to:

Consultation sur le racisme et la discrimination systématiques

Ville de Montréal

l'Office de consultation publique de Montréal

Octobre 2019

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The members of Outremont's Hasidic communities¹ have been citizens of Quebec and an integral part of the borough for many generations. They represent between 20-25% of Outremont's total population of about 25,000. Jewish people represent 2.4 % of Montreal's population and Hasidic Jews are a small proportion of this overall number. Many members of the Outremont Hasidic community are descended from Eastern European Holocaust survivors who came to Montreal as immigrants and refugees bearing historical trauma. The Hasidic community understands and respects the desire of the majority francophone community in Quebec to protect their language and traditions. Equally, the Hasidic community maintains its right to protect religious and cultural traditions. The Hasidic community follows its traditions and scriptures closely in order to protect cultural identity. For religious and cultural minorities in Quebec, the concept of equality should encompass the right to live differently, without pressure to assimilate.

The Hasidic community in Outremont has much in common with their neighbours from the majority francophone community and with other minority communities in the borough. They live a peaceful life, place a high value on family, are law-abiding, vote in elections, and participate in religious practices and cultural

¹There are a number of different Hasidic communities or congregations such as Belz, Satmar etc.

festivities. Rather than Christmas and Halloween, the community celebrates Jewish traditions such as Passover and Purim. Rather than Christmas decorations adorning their houses, the community constructs sukkahs for a few days every year to celebrate Sukkot. As with some members of other religious minorities, the Jewish Hasidic community is easy to identify because of their traditional dress.

These differences are accepted by open-minded Outremont citizens, tolerated by many, and unfortunately, have also been the object of discriminatory words and actions by some Outremont citizens. A very shocking example was the recent campaign in 2018 against Hasidic school buses, when a group of Outremont citizens protested in council wearing yellow squares reminiscent of the yellow stars Jews were forced to wear during the Holocaust.

<https://www.journaldemontreal.com/2018/03/07/carres-jaunes-a-outremont-valerie-plante-denonce-lincident>

<https://www.lapresse.ca/actualites/grand-montreal/201803/06/01-5156337-des-carres-jaunes-ement-la-controverse-a-outremont.php>

Intolerant views may be based on a fear of difference, or a belief in an extreme view of secularism which violates constitutional rights. Moreover, fear may stem from the view that Outremont belongs to the majority community, and that the minority Hasidic community constitutes “intruders” and “outsiders”, who will “take over” Outremont and, therefore, the Hasidic community should be made uncomfortable (by banning new places of worship etc.) so that they might leave Outremont. Another prominent position is the view that all minorities should assimilate and the Hasidic community is no exception.

This submission to the Consultation on Systemic Racism and Discrimination is particularly concerned with bylaws and resolutions passed by the Outremont borough council. The Hasidic community in Outremont has been subjected to the discriminatory use of the law by previous Outremont borough councils that targeted, restricted and even banned some Jewish religious celebrations and places of worship. This targeting has occurred over the course of the past 20 years.

In the past, members of the Outremont borough council have shown a serious disregard for constitutional rights in the use of discretionary power. For example, the council has effectively managed to restrict religious practices related to the holidays of Sukkot, Purim, Passover (Burning of the Chametz), the Sabbath, as well as religious processions in general. Zoning bylaws have been used in an attempt to close a synagogue. Zoning bylaws have been modified to restrict new places of worship on commercial streets. Recently, this resulted in the banning of new places of worship in the entire borough. Although bylaws may be written in neutral terms, they affect the Hasidic community in a disproportionate manner.

Some of the actions undertaken by the council have left members of the Hasidic community little choice but to pursue legal avenues in order to protect their constitutional rights. The city has lost every court case, which has been costly, both for the Hasidic community and taxpayers. It is unacceptable that Quebec citizens should face systemic discrimination by their own borough councils. It is also unacceptable that citizens who believe their constitutional rights have been violated, have no other means to address the problem except to undertake expensive legal proceedings. Members of the community have been so concerned that a complaint was submitted to the Ville de Montreal in June 2017.

http://ville.montreal.qc.ca/pls/portal/docs/PAGE/COMMISSIONS_PERM_V2_FR/MEDIA/DOCUMENTS/ME M_HCO_20170620.PDF

Bringing a complaint of discrimination or racism often results in a serious backlash with the victims being accused of hyperbole and exaggeration, whether they be members of the Hasidic community or non-Hasidic friends. This backlash creates fear and makes it difficult for people to speak up. Therefore, the Hasidic community appreciates this opportunity given by the Montreal consultation. This statement for the Consultation on Systemic Racism and Discrimination will outline specific examples of discriminatory legislation and abuse of discretionary powers by the Outremont borough council.

- In 1999, following the opening of a new synagogue on Van Horne, Amour pour Israël, Outremont passed a bylaw banning new places of worship on Van Horne Avenue.
<http://www.lapresse.ca/actualites/montreal/201611/19/01-5043156-un-referendum-sur-linterdiction-des-lieux-de-culte-a-outremont.php>
<http://nationalpost.com/news/canada/orthodox-jews-feel-targeted-by-rezoning-plan-that-bans-religious-buildings-in-montreal-borough>
- In 2000, Outremont borough council decided to dismantle the eruvim in the borough. An eruv is a symbolic string or wire boundary that allows orthodox Jews to perform tasks that would otherwise be prohibited on the Sabbath. The Hasidic community challenged the Outremont borough in court. In 2001, Justice Hilton of the Quebec superior Court upheld the constitutional right of the Outremont Hasidic community to construct an eruv. Outremont was ordered not to dismantle the eruvim again. The judge rejected the argument that Quebec law requires cities to remain strictly secular. Justice Hilton stated that: “On the contrary, the City has a constitutional duty to provide accommodation for religious practices that do not impose hardship on its residents.” (Rosenberg vs Outremont (City))
[https://www.canlii.org/en/qc/qccs/doc/2001/2001canlii25087/2001canlii25087.html?autocompleteStr=2001%20CanLII%2025087%20\(QC%20CS\)%20&autocompletePos=1](https://www.canlii.org/en/qc/qccs/doc/2001/2001canlii25087/2001canlii25087.html?autocompleteStr=2001%20CanLII%2025087%20(QC%20CS)%20&autocompletePos=1)

Le juge a conclu que les élus ont le « devoir constitutionnel d’accommoder les pratiques religieuses qui ne causent pas de préjudice indu ».

http://plus.lapresse.ca/screens/388cfccb-613b-43ca-beee-f5cf64e01f44%7C_0.html

The judge also rejected the argument of Celine Forget (former Outremont borough councillor) who spoke on behalf of the Mouvement Laïque Québécois claiming the eruv prevented her from flying her kite.

http://plus.lapresse.ca/screens/388cfccb-613b-43ca-beee-f5cf64e01f44%7C_0.html

<https://beta.theglobeandmail.com/news/national/jewish-community-can-build-religious-symbol-court-rules/article18415690/?ref=http://www.theglobeandmail.com&>

- In May, 2003, Outremont adopted a bylaw (A20) greatly restricting the use of buses within the borough. Mayor Stéphane Harbour claimed there had been complaints regarding buses chartered for intercity travel by the Hasidic community, demonstrating that the Hasidic community was the target. <http://www.cbc.ca/news/canada/montreal/bylaw-prevents-jewish-bus-from-heading-to-nyc-1.374783>
- In 2008, the Outremont council passed a resolution to close the Munchas Elozer Munkas synagogue that had been located on St. Viateur for 35 years. The synagogue challenged this action in court. In April 2013, Superior Court Justice André Prévost noted that the “strict, rigorous and blind” application of bylaws in Outremont required the intervention of the court to prevent injustice (« les circonstances du présent dossier sont exceptionnelles et l’exercice de la discrétion judiciaire apparaît nécessaire « pour éviter les injustices qu’ une application strict, rigoureuse et aveugle de la réglementation pourrait entraîner »38 »). <https://www.canlii.org/fr/qc/qccs/doc/2013/2013qccs1559/2013qccs1559.html?autocompleteStr=500-17-049660&autocompletePos=1>
<http://news.nationalpost.com/news/canada/montreal-hasidic-synagogue>
- In 2010, the council raised complaints about the religious ceremony of the Burning of the Chametz (Bread). The practice only occurs once a year for a few hours before the beginning of the Passover holiday. From 2003 to 2009, this ceremony was held peacefully in the Outremont Public Works lot. The fire department and borough had no issue with it being performed in this appropriate and safe public space. However, a Outremont borough councillor argued that the city was not permitted to accommodate a religious ceremony in a public space. The Hasidic community was thus forced to move the location of the ceremony from city property to private property owned by a member of the Hasidic community. In April 2013, the Outremont council once again raised objections to this ceremony. Consequently, the council unanimously passed a resolution (CA 13 16 0129) to ban the ceremony of the burning of the bread even on this specific private property. As a result, this ceremony is now observed in another borough altogether. This is another example of the disregard of the constitutional rights of a minority religious community.

<https://mtlurb.com/index.php?/topic/9427-un-autre-accommodement-tourne-au-vinaigre/>

<http://outremonthassid.com/?p=1471#.WdGI-juWxjo>

<http://outremonthassid.com/?p=1471#.WdGpszuWxjo>

- In April 2012, Outremont voted to place a temporary moratorium on religious processions, thereby refusing a request from the Hasidic community for a permit for a procession. This type of procession had taken place in Outremont since 1972.

http://ville.montreal.qc.ca/pls/portal/docs/PAGE/ARROND_OUT_FR/MEDIA/DOCUMENTS/R%C8GLEMEN T%20AO-21%20 MAJ%2020 .PDF

<http://ottawasun.com/2012/04/06/montreal-borough-votes-to-ban-religious-processions/wcm/fa4f1ebc-85d8-41e3-852b-503411e745d7>

<https://www.theglobeandmail.com/news/national/outremont-easter-procession-cancelled-due-to-districts-conflict-with-hasidic-jews/article4098232/>

<http://outremonthassid.com/?p=133#.Wu--tO8vzIU>
- In 2012, borough officials abruptly decided to discontinue parking arrangements for Jewish holidays that prohibit driving. These arrangements had existed for 20 years. Tolerance for parking during Christian holidays such as Christmas and Easter remained in force.

<http://outremonthassid.com/?p=1639#.WYtOXzuWxjo>
- In 2013, a decade after it was written, the bylaw regarding the circulation of buses (A 20) was reinterpreted restrictively, prompting extensive ticketing of the drivers of 21-seat minibuses used to safely transport children on the holiday of Purim, which is the most joyous festival for Hasidic children. Originally enacted in 2003 to prevent the community from using Chartered buses for intercity travel, the borough now applied the bylaw to prevent the use of minibuses to transport children during the Festival of Purim. Outremont thus became the only borough in Montreal that has engaged in targeting and ticketing minibuses during Purim which lasts about 24 hours once a year in February or March. Outremont claims that 21 seat minibuses are actually buses according to the Highway safety Code as they have double back wheels; they are, therefore, banned in Outremont. However, these same minibuses are seen transporting seniors and other non-Hasidic residents without consequence. In 2015, in the context of a challenge to these fines in municipal court, the Borough was informed by its own attorney that since the city did not have the appropriate signage in the first place to indicate the restrictions or prohibitions, they could not enforce the bylaw. Since that time, there has been an understanding that the City would not enforce the bylaw without the appropriate traffic signs in place. However, the bylaw remains on the books and the community lives in uncertainty as to when their practice of Purim would again be penalized by the City. In this context, the Hasidic schools have launched a Charter challenge to A 20 arguing that the bylaw necessarily creates discriminatory effects against the Hasidic community. The

plaintiffs have suspended the court challenge in order to give the new administration time to act.

<http://www.crarr.org/?q=fr/node/19756>

<http://www.lapresse.ca/actualites/montreal/201302/23/01-4624717-fete-juive-de-pourim-outremont-sur-le-qui-vive.php>

<http://globalnews.ca/news/2378952/outremont-bus-bylaw-challenged-over-religious-holiday/>

<https://globalnews.ca/video/2599517/changing-the-outremont-bus-bylaw>

<http://www.cjnews.com/news/canada/chassidim-launch-charter-challenge-of-outremont-bylaw>

<http://globalnews.ca/news/2599543/no-fines-for-purim-buses-in-outremont/>

<http://www.cbc.ca/news/canada/montreal/outremont-councillor-says-no-exemptions-for-purim-buses-1.1372121>

- Outremont has a bylaw that limits the amount of time a sukkah can be erected and dismantled to 15 days total during the holiday of Sukkot which lasts for 10 days. This is possibly the most restrictive bylaw in the western world regarding the duration of time this structure can stay standing (Règlement 1177). Furthermore, this bylaw is vague and difficult to enforce. In 2014, an amendment to this restrictive bylaw on sukkahs was suggested by the Service de l'aménagement urbain et du patrimoine (SAUP) to allow for a sukkah to remain standing for 7 days before and 7 days after Sukkot which would bring Outremont in line with the neighbouring borough of Côte-des-Neiges-Notre-Dame-de-Grâce. This was approved by the Contentieux de la Ville de Montréal. However, Councillor Celine Forget proposed an amendment to the bylaw to allow only 3 days before and 3 days after Sukkot. This was passed by a majority vote of the council in spite of overwhelming opposition in the public consultation to this more restrictive modification. There was much public protest before the final adoption and finally the mayor used her vote prépondérant to strike down the amendment. However, the original restrictive 15 day bylaw is still in effect.
<http://www.lapresse.ca/actualites/montreal/201410/30/01-4814051-soiree-de-consultation-houleuse-a-outremont.php>
<http://montrealgazette.com/news/local-news/opinion-outremont-sukkah-battle-is-the-latest-case-of-harassment-of-hasidim>
<http://montrealgazette.com/news/local-news/opinion-why-does-outremont-need-any-sukkah-bylaw-at-all>
<http://nationalpost.com/news/canada/time-limit-put-on-jewish-festival-huts-in-montreal-borough-an-outrage-critics-say>
<http://www.cjnews.com/news/canada/montreal-chassidim-not-satisfied-sukkah-compromise>
http://outremonthassid.com/?p=2505#.WJ_m8DszXIU
- In 2016, Outremont passed a bylaw banning new places of worship on Bernard and Laurier Street. In conjunction with all the previous bylaws, this new bylaw effectively banned all new places of worship in Outremont. The Hasidic community which represents between 20-25% of the Outremont population is clearly the community most

affected. Zoning bylaws were used to ban any new places of worship in violation of constitutional rights.

http://plus.lapresse.ca/screens/388cfccb-613b-43ca-beee-f5cf64e01f44%7C_0.html

<http://www.lapresse.ca/debats/chroniques/michele-ouimet/201611/25/01-5045416-le-mal-vivre-ensemble.php>

http://plus.lapresse.ca/screens/383a42ac-e26e-4bd1-ade7-8afec5a4260b%7C_0.html

http://outremontassid.com/?p=2708#.WJ_lkzszXIU

<http://www.cbc.ca/news/canada/montreal/hasidic-outremont-montreal-bernard-legal-challenge-1.3860258>

<http://nationalpost.com/news/canada/orthodox-jews-feel-targeted-by-rezoning-plan-that-bans-religious-buildings-in-montreal-borough>

<https://m.facebook.com/Bill613/posts/1257582330934410>

- In September 2016, the council had scheduled their monthly meeting and another special meeting during the Jewish holiday of Rosh Hashanah, one of the holiest holidays of the year when work is prohibited. Months before the meeting, Councillor Mindy Pollak, who is a member of the Hasidic community, asked that the date be changed because she would be observing the holiday and because by holding the meetings on those days, the council was effectively preventing her constituency from participating. The council refused her request for accommodation without following any legal obligations in their decision-making process.

http://plus.lapresse.ca/screens/8f53398d-68d8-4a61-8ff2-426d8e86a198%7C_0.html

<http://montrealgazette.com/news/local-news/councillor-criticizes-outremont-for-scheduling-council-meeting-on-rosh-hashanah>

These examples of the targeting of the Hasidic community in Outremont by a borough council that disregards basic constitutional rights is a clear case of systemic discrimination. It should not be necessary for the Hasidic community to turn to the courts to protect their constitutional rights. Many Outremont citizens, both Hasidic and non-Hasidic, have joined together to work on creating bonds of friendship and understanding in Outremont-Friends of Hutchison and Citoyens.ne.s pour un Outremont Inclusif are examples. Given the Canadian and Quebec charters of rights and freedoms, and the Montreal Charter of Rights and Responsibilities, it is the Ville de Montreal's legal responsibility to take action to end the problem of systemic discrimination in Outremont. Given the existence of intolerance or prejudice against the Hasidic community in Outremont it is urgent that the Borough council assume a leadership position in the fight against systemic discrimination, rather than contributing to the problem.

Recommendations:

1. Given the obligation of municipalities to respect both federal and provincial human rights charters, and their own municipal charters, the Ville de Montreal should improve its oversight of human rights violations.

2. Municipalities should consult with the Human Rights Commission before passing any bylaws that may have a disproportionate impact on minorities whose rights are protected by the charters.
3. The lawyers responsible for the legal oversight mechanism at the Ville de Montreal with which the boroughs consult regarding new bylaws must also have training in human rights charters and must apply human rights laws when analyzing proposed laws submitted by the boroughs. These lawyers must also inform themselves about the specific local contexts in which the proposed laws are to be applied in order to avoid instances of systemic discrimination.
4. The city should provide financial support to local borough councils for human rights initiatives.
5. All municipal officials in positions of power and decision-making should be required to take a course on charter rights.
6. Municipal and Borough councils should not pass new bylaws on the basis of a few complaints which often come from the same individuals.
7. Citizens should not be forced to take expensive legal action to protect their constitutional rights. The Ville de Montreal should ensure that citizens have an alternative route to voice their complaints such as a special Ombudsperson for cases of systemic discrimination. Citizens should have a response within a reasonable amount of time. The Ombudsperson should not only be empowered to investigate, but also to make recommendations to the Ville de Montreal to sanction the borough.
8. Outremont routinely makes exceptions for cultural and community events and doing so for Hasidic festivals such as Purim would not be exceptional. Refusals and the reasons for the refusals should be in writing and must conform with Charter obligations. Members of the Hasidic community should have the same rights as any other citizen to enjoy their festivals.
9. The practice of ticketing minibuses on Purim created useless tensions for all in the neighbourhood and penalized the Hasidic community for its religious practice. Outremont is the only borough which has engaged in this ticketing. To avoid future harassment of children during Purim, the definition of “minibus” in bylaw 1171 should be amended to include minibuses with double back wheels. Alternatively, we recommend the borough council modify bylaw A20 to make an exception for minibuses.
10. At this time, no new places of worship are allowed in the entire borough of Outremont. The borough must respect constitutional rights and open streets for places of worship in Outremont.

11. Municipal and borough councils should ensure that avenues for dialogue be opened and be functional.
12. Municipal and borough councils should provide mechanisms for alternative dispute resolutions so that neighbours may have a non-judicial process to resolve differences.