

Challenging the Expansive Interpretation of “*Religion*” Under Section 2(a) of the Canadian Charter of Rights and Freedoms A Constitutional Research Paper

Respectfully submitted to the Legislative and Judicial Bodies of Canada

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Executive Summary

Section 2(a) of the *Canadian Charter of Rights and Freedoms* guarantees “*freedom of conscience and religion*.” This provision was intended, as articulated by the last living signatory Brian Peckford, to protect the historic Christian church and individual conscience from state interference—not to create a neutral, expansive shield for any and all belief systems, including those centered on what biblical and historical sources identify as false gods or idolatry.

The modern legal definition of “*religion*” employed by Canadian courts—a broad, purportedly neutral sociological category encompassing diverse ideologies and competing belief systems—is a post-biblical, post-Enlightenment, Western construct. It did not exist in the ancient world, in biblical texts, or in the original understanding of the framers of the Charter, which must be interpreted in accordance with the Coronation Oath, as Constitutionally required by the Rules of Succession of the King, including the *Coronation Oath Act* 1688, and the *British North America Act*, 1867.

Applying this modern category to grant Constitutional protection to practices involving false gods fundamentally distorts both the scriptural foundations of Western liberty and the original intent of Section 2(a). This report demonstrates that such an expansive interpretation must be reconsidered to align with historical, textual, and Constitutional reality.

I. Historical and Linguistic Analysis: “*Religion*” as a Modern Construct

The Stanford Encyclopedia of Philosophy entry on “*The Concept of Religion*” provides authoritative scholarly support:

- The modern Western concept of “*religion*” as a broad, purportedly neutral category that includes many competing belief systems (such as Islam, Hinduism, various aboriginal or new spiritual practices, etc.) did not exist in the ancient world or in the Bible. Biblical writers had no such pluralistic umbrella term; they distinguished the true worship of the God of Israel from idolatry and false gods.

- Latin *religio* originally signified conscientiousness, scrupulous observance, or binding duty—not a comparative genus of belief systems. Greek *thrēskeia* referred narrowly to ritual piety. Pre-modern societies lacked a separate “religious” compartment distinct from culture, law, and ethnicity.
- The neutral pluralistic category used in modern Canadian law is a relatively recent development, arising primarily between the 16th and 19th centuries from Reformation divisions among Christians and the efforts of Western scholars to classify non-Christian practices encountered during European expansion. This concept is entirely foreign to both the ancient world and Scripture.
- In English Bible translations (e.g., KJV), “*religion*” appears rarely and narrowly in the New Testament (primarily James 1:26-27), denoting pure, practical piety. The Old Testament contains no equivalent Hebrew term. Worship of other gods is uniformly condemned as idolatry, abomination, vanity, and rebellion.

This historical evidence establishes that Biblical faith does not treat systems centered on false gods as equivalent, protected “*religions*.”

II. Original Intent of Section 2(a) and Canada’s Foundational Constitutional Framework

Canada’s Constitutional order rests on a clear hierarchy beginning with the **Coronation Oath**, which predates Confederation and remains binding on the Sovereign. The first recorded Coronation Oath dates to 973 A.D. and is Constitutionally enshrined in Canada via the *Coronation Oath Act* 1688 and Rules of Succession of the Monarch. Queen Elizabeth II swore the Oath in 1953 and when she signed the Proclamation of the *Constitution Act*, 1982 on April 17, 1982, she remained fully bound by this Coronation Oath. The Charter of Rights and Freedoms emanates from, and is limited by, the Coronation Oath, not the reverse.

The primary relevant portion of the Coronation Oath, as upheld by the Ontario Court of Appeal in *O’Donohue v. Canada* (2003 OJ #2764) as part of Canada’s Constitution, states:

“Will you to the utmost of your power maintain the laws of God, the true profession of the gospel and the Protestant reformed religion established by law, and will you preserve unto the bishops and clergy of this Realm, and to the churches committed to their charge, all such rights and privileges as by law do or shall appertain unto them or any of them?”

King Charles III swore this same Oath on May 6, 2023, committing him to govern Commonwealth countries, including Canada, according to Christian Biblical principles.

The Charter opens with the solemn declaration: ***“Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:”***

The colon is legally and grammatically significant. As per the Canadian Styles Manual, s. 7.26, the colon is annunciatory in its function. It means that everything that follows—including Section 2(a), Section 27 (multiculturalism), and all other provisions—must be interpreted in submission to the supremacy of God (the Christian God as understood at Canada’s founding). At Confederation in 1867, Canada was overwhelmingly Christian (over 98% of the population).

This Christian foundation is reflected in the *British North America Act*, 1867 (which protects denominational Christian schools under Section 93), the *Coronation Oath Act* 1688, the *English Bill of Rights* 1689, the numerous Bible verses inscribed throughout the Parliament buildings, and Canada’s foundational institutions.

Freedom of *religion* in Section 2(a) was intended, as stated by Brian Peckford, “to keep the government out of the business of the church,” consistent with this Constitutional and Christian heritage. It was not intended to provide Constitutional protection for false gods to be erected and worshipped in Canada. Such an interpretation would directly contradict Scripture, particularly Exodus 20:3–4, which commands: “You shall have no other gods before me. You shall not make for yourself an idol...”

III. Legal and Policy Implications for Canada

Granting Constitutional protection to practices centered on false gods under Section 2(a) creates several untenable outcomes:

- It compels the state to remain neutral toward systems the foundational texts of Western civilization (the Bible) explicitly reject as idolatry, inverting the Charter’s protective purpose and its opening declaration.
- It prioritizes a contested sociological definition over historical, Biblical, and original-intent analysis, contrary to sound principles of Constitutional interpretation.
- It opens the door to unlimited claims, straining public resources, social cohesion, and the rule of law in a manner not contemplated in 1982.

In practice, the purportedly neutral application of Section 2(a) has produced inconsistent results, providing foreign ideologies and belief systems preferential treatment and accommodations, while Christian expressions of faith face increasing marginalization and persecution. Canada’s immigration and integration policy must prioritize those who are willing to fully embrace Canadian values and our Constitutional foundations rooted in the supremacy of God and the rule of law.

Multiculturalism (Section 27) must also be read through the Charter’s opening colon. It cannot authorize the protection of false gods or competing ideologies. It should be understood only as an acknowledgement that individuals from other cultures may reside in Canada, provided they integrate and assimilate, embracing Canada’s foundational principles.

Courts retain authority under Section 1 to impose reasonable limits demonstrably justified in a free and democratic society. A narrower, historically grounded understanding of “*religion*”—aligned with Biblical distinctions between true worship and idolatry, the Coronation Oath, the *British North America Act* 1867, and the Charter’s opening declaration—provides a compelling basis for such limits.

IV. Recommendations

1. **Legislative Review:** Parliament and provincial legislatures should examine and clarify the scope of Section 2(a) through declaratory legislation or reference questions, emphasizing the Coronation Oath, the *British North America Act*, 1867, and the Charter's opening declaration.
2. **Judicial Advocacy:** In relevant litigation, parties should introduce expert evidence on the history of the concept of *religion* (Stanford Encyclopedia), Brian Peckford's testimony on original intent of the Charter in this area, the binding nature of the Coronation Oath, and Canada's Constitutionally enshrined Christian foundations.
3. **Policy Reform:** Government agencies should distinguish between protecting individual conscience (core to Section 2(a)) and granting institutional or public equivalence to practices centered on false gods or foreign ideologies.
4. **Reconsideration of Precedent:** Prior judicial interpretations that dilute the meaning of "*supremacy of God*" or expand "*religion*" beyond its original understanding should be revisited and corrected in light of Canada's foundational documents and history.

Conclusion

The current broad application of "*religion*" under Section 2(a) rests on a modern invention foreign to the Bible, the Coronation Oath sworn by Queen Elizabeth II and King Charles III, the *British North America Act*, 1867, and the Charter's opening declaration. It cannot legitimately shield systems the Scriptures identify as false gods or idolatry.

Restoring the historically and Constitutionally accurate understanding honors the Sovereign's sacred Oath, Canada's Christian foundations under the supremacy of God, and preserves meaningful liberty for the nation. This report demonstrates that Section 2(a) was never intended to provide Constitutional protection for the erection and worship of false gods in Canada.

This position is supported by rigorous scholarship, primary Constitutional documents, Biblical text, and Canada's unbroken founding history. It merits serious consideration by all branches of government and the judiciary.