

Chantal Maillé, Greg M. Nielsen
& Daniel Salée (eds.)

Revealing Democracy

Secularism and Religion
in Liberal Democratic States



P.I.E. Peter Lang

■ Anxieties over the Islamic face covering and over the proper management of otherness in liberal democracies seem to have reached a new peak with the introduction of legislation banning the burka in France and Belgium, and recent proposals for similar statutes in Quebec. What assumptions are contained within Western secularism and revealed in these attempts at legislating women's religious clothing?

This book presents a collection of essays which take secularism/*laïcité* and the regulation of public expressions of religious commitment as their points of departure, exploring the issues these raise within society with a view informing the public debate and reflecting on the nature of citizenship. Is democracy well served when the terms and conditions of citizenship are defined beforehand by a given group and when these terms are presented as non-negotiable and unchangeable?

Revealing Democracy sheds light on the ways in which liberal states address and cope with the challenges of diversity and otherness and documents how processes of domination may be internalized and reflected in discourses on secularism and religion. It compels us to look without complacency at the limitations of liberal democratic citizenship and reflect on the inability of state policies to curb racism and entrenched patterns of Eurocentric social domination.

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INTRODUCTION

Quebec, Secularism and Women's Rights On Feminism and Bill 94

Chantal MAILLÉ and Daniel SALÉE

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In March 2010, Quebec's Minister of Justice introduced in the National Assembly Bill 94, *An Act to establish guidelines governing accommodation requests within the Administration and certain institutions*. The proposed legislation states "that the practice whereby a personnel member of the Administration or an institution and a person to whom services are being provided by the Administration or the institution show their face during the delivery of services is a general practice, and that if an accommodation involves an adaptation of that practice and reasons of security, communication or identification warrant it, the accommodation must be denied." Although the proposed legislation does not explicitly target Muslim women, those who, among them, wear a face or full body veil (niqab, burqa) in public according to their religious beliefs would not be authorized to work for the Quebec state and state agencies or have access to key state services (hospitals, schools, universities, day care centers) were bill 94 to become law.

Bill 94 did not become law after all. Despite months of public consultation and study in parliamentary committee, the Charest government did not bring it back for adoption in the National Assembly. The last time the parliamentary committee on Institutions discussed Bill 94 on record was September 28, 2011 – it has not been discussed since. Still, the issues of secularism, women's rights and the display of religious signs underlying Bill 94 remain very much part of public debate in Quebec. They resurfaced during the 2012 electoral campaign as Parti Québécois leader, Pauline Marois, felt compelled to insist that under her stewardship the government would put forward a *Charte de la laïcité* (Charter of secularism), which would clearly establish that the display of religious signs and clothing of any kind and the public expression of

religious conviction would be prohibited in the process of delivering or receiving state services (Mathieu, 2012) – that would not apply, however, to the crucifix hanging over the Speaker's Chair in the National Assembly, which, Madame Marois argued, stands as a symbol of Quebec's heritage.

Anxieties of mainstream society in liberal democracies over the Islamic face cover and related issues of immigration, citizenship, and the proper management of otherness and ethnocultural diversity are not new or unique to Quebec society. In recent years, a number of other jurisdictions have felt compelled to tread the same legislative path as Bill 94, indeed with even more vigor and determination. In April 2010, for example, the Belgian parliament approved a draft legislation that bans the burqa in public spaces and sends repeat offenders to prison. In 2011, France adopted a ban on Islamic face veils in public, and women who wear the niqab or burqa are now banned from any public activity, including driving a car, walking down the street, taking a bus, or collecting children from school (Chrisafis, 2011). Women can be fined for wearing the burqa or sent to mandatory French citizenship courses to inform or remind them of the values of the French republic.

To some, such legislative measures are unnecessary and represent a violation of the basic freedom of religious expression guaranteed constitutionally in most liberal democratic societies. To others, who believe the niqab and the burqa symbolize the oppression of women, such measures are, on the contrary, essential both to protect women's right to equality and create a strong and secular democratic shield against religious fundamentalism – more specifically Muslim fundamentalism, often presented as a clear and present danger. Interestingly, both camps claim their respective position rests on a deep concern for human rights and democratic advancement. In reality, discussions and debates over the propriety of regulating female Islamic garments are symptomatic of broader questions that are hardly ever formulated as such: why do liberal democratic societies like Quebec, which have made embracing ethnocultural diversity and religious pluralism a defining feature of their public culture for several decades, now seem to retreat from such a stance? Is banning the Islamic veil an exceptional measure and a reasonable, self-preserving, liberal-democratic limitation on the freedom of expression? Or is it the mark of a deep-seated change in attitude on the part of the mainstream hegemonic culture toward minority ethnocultural identities and normative sets? Or is it, more simply, a knee-jerk, anti-Muslim reaction driven by the general current international context of politico-ideological opposition between East and West? Such questions are rarely raised, if at all, to shed light on the Islamic veil issue. Yet, they are important. They take us well beyond the veil and force us to

address the dynamics of power and the social relations that underscore the state's approach to ethnocultural diversity and normative otherness in the public space. Indeed, they compel us to take a hard, non-complacent look at the limitations of liberal democratic citizenship, that is, at the inability of state policies, however well intended they may be, to curb racism, intercultural inequality and entrenched patterns of Euro-centric social domination in any genuine and durable way.

That was the goal we pursued in convening a conference on Bill 94 at Concordia University in the fall of 2010, under the auspices of the Centre de recherche interdisciplinaire sur la diversité (CRIDAQ). We asked scholars from Canada, the United States and Europe to consider with us the contemporary masking of race in current and dominant societal discourses and public policy statements on difference, particularly with respect to issues of ethnocultural diversity and normative and religious pluralism in Quebec and elsewhere. Most of the chapters gathered in this book were originally presented at our conference on *Revealing Democracy: Bill 94 and the Challenges of Religious Pluralism and Ethnocultural Diversity in Quebec*. Each in its own way represents an answer to the question that underscores the current propensity of contemporary liberal democratic states to ban the Islamic veil and regulate public expressions of religious commitment: Is democracy well served when the terms and conditions of citizenship are defined beforehand by a given group, and when these terms and conditions, however well intended and enlightened they may be, are presented as non-negotiable and unchangeable?

Backdrop to Bill 94

The issue of the public display and expression of religious or cultural norms that differ considerably from the mainstream of Quebec society has been a recurring object of public debate since the 1990s. At that time much was made of the wearing of Islamic headscarves in schools. In 1995, the Quebec Human Rights Commission determined that public schools should not deny students wearing a hijab access to their services for religious reasons. In 2001, the town of Outremont in Montreal created a stir by prohibiting the installation of *eruv*, a wire that Hassidic Jews string around their houses a few meters above the ground to symbolize the extension of the Jewish home into the public domain. The Hassidic community sought a Superior Court injunction against the town and was eventually authorized to bring back the *eruv*. Similarly, in 2002 the Montreal-based family of a young Sikh boy, Gurbaj Singh Multani, launched a *cause célèbre* by contesting all the way to the Supreme Court of Canada the decision of Gurbaj's school to bar him from its premises so long as he insisted on carrying his *kirpan*, a cere-

monial dagger religious Sikh males feel required to wear in conformity with the dictates of their faith. The Supreme Court ultimately ruled in 2006, on the basis of the Canadian Charter of Rights and Freedoms that the Sikh boy should have been authorized to carry his *kirpan* provided it was properly sheathed.

In 2007, when the Charest government set up the *Consultation Commission on Accommodation Practices Related to Cultural Differences*, under the shared chairmanship of two prominent Quebec academics, sociologist Gérard Bouchard and political philosopher Charles Taylor, it was a response to a mounting high-profile controversy that had been brewing for some time over the nature of accommodation that immigrants and members of religious minorities should reasonably expect from mainstream Quebec society. “Reasonable accommodation” has been an intrinsic part of Quebec’s institutional makeup since the mid-1980s, and is fully in line with the requisites of the Quebec and Canadian Charters of Rights and Freedoms. It represents but one tool in an extensive assortment of diversity management policies and state interventions designed by the Quebec government over time, ostensibly to address socioeconomic discrimination and the social exclusion of vulnerable minority groups.

Still, in the fall of 2006 news reports on what was presented as instances of rather “unreasonable” demands for accommodation¹ had triggered a series of well-publicized, vehement and thinly veiled anti-immigrant statements by right-of-centre politicians, and led the town council of Hérouxville, a small, solidly French-Canadian municipality located 160 kilometres northeast of Montreal, to edict a decidedly patronizing and unwelcoming code of conduct for immigrants who might consider settling in its midst. Despite jeers and sneers dismissing the people of Hérouxville as narrow-minded country bumpkins, town officials persisted with their code of conduct and even lobbied the government to amend the Charter of Rights and Freedoms in order to abolish reasonable accommodations. Many applauded Hérouxville’s actions and a number of towns in the region stated their intention to

¹ Examples of such reports include the willingness of a local YMCA to comply with the request of a Montreal community of Hassidic Jews that the windows of its fitness room be frosted so as to prevent the community’s boys attending the neighbouring synagogue from being exposed to the view of women bouncing about on exercise machines dressed in gym clothes; the policy of the Montreal police department to avoid dispatching female police officers on calls involving male members of the Hassidic community on account of their culturally driven reluctance to interact with non-Jewish women; the decision of a local state center of social and public health services to offer pre-natal classes for Muslim women, where men are not allowed; and the efforts made by some hospitals to cater to the requests of some Muslim men that their wife be attended to and treated by female doctors and nurses only.

follow suit while others unequivocally called for an end to the type of institutional asymmetry reasonable accommodation represents. The sympathy the Hérouxville initiative attracted indicated a deep-reaching social malaise over immigration, Quebec identity and citizenship rules of intercultural coexistence in the public space, with a strong potential for unsavoury twists and turns if unaddressed. The Bouchard-Taylor Commission was the government's way to maintain control over an issue that might easily have gotten out of hand.

The Commission was instructed to take stock of accommodation practices related to cultural differences and assess concomitant social stakes in light of other experiences outside Quebec; conduct an extensive consultation among individuals and organisations wishing to state their views on accommodation practices related to cultural differences; and make recommendations to the government with a view to ensure that accommodation practices related to cultural differences conform to Quebec's values as a pluralistic, democratic and egalitarian society. The co-chairs toured Quebec during the fall of 2007, holding twenty-two generally well-attended televised public hearings and citizens' forums in 17 regions and municipalities. Ordinary citizens were invited to present briefs and speak their mind freely about reasonable accommodation. In addition, four province-wide forums were organized by the Institut du Nouveau Monde, a left-of-center think tank, at the request of the commission. Overall, the process attracted 3423 participants and generated 901 written submissions from individuals, groups and associations, and 761 requests to speak before the Commission (241 of which were heard by the co-chairs).

The report of the Commission, released in May 2008, minimized the reasonable accommodation debate and argued instead that the anxieties that seemed to be felt by Quebecers of French Canadian descent about the apparent threat of accommodation on their identity was largely fuelled by a crisis of perception attributable to media misrepresentation of individual cases of accommodation. The report enjoined "old stock" Quebecers to acknowledge that Quebec identity could no longer be limited to a French Canadian identity and that it must be as inclusive as possible. Anyone who resides, works and makes their lives in Quebec society is a Quebecer regardless of origin. The Commissioners put forward 37 recommendations. On the issue of religious expression in the public space and secularism – which was the main focus of reasonable accommodation insecurity – they suggested prohibiting provincial judges, Crown prosecutors, police officers and prison guards from wearing religious signs and clothing while on the job, but allowing teachers, health-care workers and students to wear hijabs, kippas or other religious garments or symbols. The Commissioners also suggested

that the offer of prayer rooms in educational institutions should not be compulsory, but granted on an *ad hoc* basis contingent on the availability of space, that prayers should be eliminated from all municipal council meetings, and that the crucifix hanging in the National Assembly be removed and put somewhere else in the government building.

The report was received with hostility, particularly by some Quebec nationalists who took offense at the blame the Commissioners implicitly seemed to assign to the majority French Canadian population for not doing enough to facilitate the inclusion of immigrants and members of ethnocultural minorities in mainstream Quebec society. Many also felt the Commissioners' understanding and vision of Quebec identity would only diminish the social and normative centrality Quebecers of French Canadian descent have come to occupy in Quebec society: too much leeway left to cultures and religions whose fundamental normative sets differ significantly from the mainstream, they suggested, threatens the core values of Quebec society, chief among them the equality of men and women. The lack of regard that some religions are presumed to have for gender equality is a theme detractors of reasonable accommodation have used repeatedly to make their case and deflect attention from their insecurity and reluctance toward otherness and difference.

On the heels of the Bouchard-Taylor report, the Charest government undertook a number of initiatives meant to clarify the social and normative boundaries between the "old-stock," majority population and minority immigrants and racialized groups. In June, 2008 the Quebec Charter of Rights and Freedoms was modified by an Act of the National Assembly that clearly emphasized that the rights and freedoms set forth in the Charter are guaranteed equally to men and women.² Later that year, in October, the Minister of Immigration and Cultural Communities announced the government's strategic plan for immigrant integration, which included making immigrants sign a statement stipulating that they commit to learning French (if they didn't already speak it) and comply with Quebec's basic common values.³ Although the government tabled a legislative proposal (Bill 16) in March, 2009 to get the Administration

² This amendment had been called for in particular by the *Conseil du Statut de la femme* (Quebec's Council on the Status of Woman), which maintained before the Bouchard-Taylor Commission that the Islamic veil was sexist. The Conseil insisted that gender equality should prevail over religious freedom.

³ These common values are fundamental norms guiding social interaction and include the following notions: Quebec is a free and democratic society; church and state are separate entities; Quebec is a pluralist society; Quebec is based on the rule of law; men and women have equal rights; the enjoyment of rights and freedoms cannot be at others' expense or against society's well-being; French is the primary and prevailing language of public transactions.