

Incommodations, 2008-2013: The Aftermath of the Reasonable Accommodation Crisis

**Third of Five Reports prepared by Miriam Chiasson
for David Howes and the Centaur Jurisprudence Project,
Centre for Human Rights and Legal Pluralism, McGill University
August 2013**

Table of Contents

Introduction: The Reasonable Accommodation Crisis in Quebec.....	1
Religious Accommodation in a Lay Space	5
• École de Technologie Supérieure prayer room case.....	5
○ ETS's defense.....	6
○ Commission des Droits de la Personne ruling	7
○ Reflection on the place of religion in society	10
Head Coverings and Dietary Restrictions in the Public Sphere in Recent Cases.....	11
• Bouchard and Taylor's Recommendations.....	11
• Bill 94: An Act to Establish Guidelines Governing Accommodation Requests Within the Administration and Certain Institutions (2011).....	12
○ Background.....	12
○ Bill 94: What does it seek to do?.....	13
○ Arguments of Supporters of Bill 94.....	13
○ Arguments of Opponents of Bill 94	16
○ Outcome: Where is Bill 94 now?.....	17
• Unlabeled <i>Halal</i> Meat for General Consumption in 2012	18

THE MANAGEMENT OF DIVERSITY, PART 3: INCOMMODATIONS

○ Background.....	18
○ Arguments for Obligatory Labelling of <i>Halal</i> Meat.....	19
○ Arguments against Obligatory Labelling of Halal Meat, and against the Debate over the Issue.....	20
○ Outcome: Waiting for the Federal Minister.....	22
● 2013 Sikh soccer players case	23
○ Background.....	23
○ Arguments of Supporters of the Turban Ban	23
○ Arguments of Opponents of the Ban	25
○ Outcome: Revoking the Turban Ban	27
The Presence of Catholic Symbols in the Public Sphere	29
● Bouchard and Taylor’s Recommendations.....	29
● The Crucifix in the National Assembly, 2008 to Today	30
○ Background.....	30
○ Arguments of Supporters of the Crucifix.....	31
○ Arguments of Opponents of the Crucifix	32
○ Outcome: Hanging in the National Assembly	34
● Prayers before City Councils in Saguenay from 2008 to 2013.....	34
○ Background.....	34
○ Arguments of Supporters of the Prayer.....	36
○ Arguments of Opponents of the Prayer	38
○ Outcome: The 2013 Quebec Court of Appeal Decision	39
What is <i>Laïcité</i> in Quebec?	42
● Grappling with Incoherencies and Definitions.....	42
○ Bouchard and Taylor’s Definition	42
○ Criticisms of Bouchard and Taylor’s Definition.....	44
○ Other Attempted Definitions, and Confusion	45
● Quebec Identity and History.....	47
● <i>Laïcité</i> as a Social Issue.....	49
● What do the Cases Examined Reveal about Quebec’s <i>laïcité</i> ?	50
<i>La Charte de la Laïcité du Québec</i>	54
● <i>Pour un Québec laïque et pluraliste</i>	54
● PQ Plans in the 2012 Electoral Context.....	56
● Guidelines and Potential Content of the <i>Charte</i>	57
● Criticisms of the <i>Charte</i>	57

- Where is the *Charte* Today?..... 58
- Conclusion: *Laïcité* in Quebec..... 60
- Bibliography..... 62
 - News Articles..... 63
 - ETS Prayer Room..... 63
 - *Niqab, Burqa* and Bill 94 64
 - *Halal* Meat Controversy 67
 - FSQ's Turban ban..... 68
 - Crucifix in the National Assembly 70
 - Prayer in Saguenay 72
 - *Charte de la laïcité* 73
 - Government Documents 75
 - Scholarly Articles 76
 - Books and Essays in Books 78

Introduction: The Reasonable Accommodation Crisis in Quebec

The increasingly globalized world of the 20th century has led to the international mobility of immigrants, to a “new nomadism, driven by economic globalization” (Dumas and Bélair-Bonnet, 2010, p. 18). Within this new world, the province of Quebec needs to position itself to attract these mobile immigrants, and must adapt itself to a new immigration profile, with more immigrants from Asia and Africa making Quebec their new home (Turcotte, 2010). Integrating immigrants, whether culturally, politically or in the workforce, has been challenging for Quebec society and the target of many governmental and community efforts. Though inequalities, such as discriminatory practices in employment (Chicha, 2010), must be tackled and conditions for full participation established to successfully integrate immigrants, the anxieties of the majority, faced with the changing composition of their society, must also be alleviated.

Though, according to a 2004 report of the Conseil des Relations Interculturelles, the majority of immigrants and visible minorities in Quebec are actually Catholic, the increasing diversity of Quebec’s immigrant population has led to cultural anxieties, especially related to the religiosity of non-Christian immigrants, among the “Québécois de souche” – a largely white, francophone, Catholic or Catholic-influenced population. Indeed, while the Québécois have mostly shed their religious identities in the past half century, the often deep-rooted religious identities of immigrants, which they may regard as more significant to their personal experience than their national identity (CDRI, 2004), seem to clash, in the perspective of many Québécois, with Quebec society’s “*laïque*” quality. The CDRI report, focused on describing religious diversity in Quebec and distinguishing the Quebec approach to dealing with religious diversity, outlines the fears of Québécois towards religious diversity and public religious expression, including the fear that civic space will become religious again, and the fear that rights of minorities, related to their religions, will in reality correspond to rights taken away from the majority, such as the majority population’s freedom of consciousness. Other authors point to the worry of whether minorities will abuse their freedom of religion to take part in customs that the majority finds repugnant, such as customs challenging the equality of men and women, thus threatening Québécois social values (Webber, 1996; Conway, 2012).

It is within this climate of anxiety towards the arrival of increasingly diverse immigrants that the reasonable accommodations debate took place in Quebec, starting in the mid-2000s, and arguably still going on to this day. While, in day to day occurrences, reasonable accommodations are well managed, without the input of courts (Potvin, 2010; Bouchard and Taylor, 2008), certain cases have been mediatized and blown out of proportion, leading to a province-wide debate, and to the establishment of a government-mandated commission, the Bouchard-Taylor Commission, to report of the current situation of reasonable accommodations and to make recommendations. The Commission (2008) indeed concluded that the reasonable accommodation crisis was in reality one of perception, with the media exacerbating issues and the public lacking the real facts about cases to correctly evaluate the realities of reasonable accommodations. Additionally, Maryse Potvin (2010) maintains that politicians, especially Mario Dumont and the ADQ, fed

Québécois fears of the “other” to gain political leverage, therefore further igniting the controversy. Potvin, Meena Sharify-Funk (2010) and Gada Mahrouse (2010) describe the reasonable accommodation debates as symptomatic of the fragile nature of Quebec national identity, and of Québécois insecurities towards their minority status within Canada, a reality that the Commission also pointed out as an explanation for the crisis.

In their report, Gérard Bouchard and Charles Taylor (2008) introduce two concepts which they believe should guide the integration of immigrants and the accommodation of different religious practices: interculturalism and “*laïcité ouverte*.” For Bouchard and Taylor, interculturalism is distinct from Canadian multiculturalism, which protects and almost crystallizes cultural differences, thus creating a “mosaic” society, because, while interculturalism does protect cultural differences as multiculturalism does, it assumes that all members of a society share a basic set of values and a civic identity; in Quebec, this identity is based on the French language, democracy and individual rights. Moreover, *laïcité ouverte* preconizes the neutrality of the state when it comes to religion, meaning that the state does not endorse any religion and maintains a secular image, and also does not intervene in the religious life of its citizens or forbid religious practices in the public realm. For Quebec society to better fit their schemes of interculturalism and *laïcité ouverte*, which they felt were for the most part already present in Quebec, Bouchard and Taylor recommended that religious practices of citizens should be tolerated, but that the crucifix hanging in the National Assembly should be removed and agents of state authority (such as police officers or judges) should not be allowed to wear visible religious symbols to protect the neutrality of the state. However, the crucifix hangs in the National Assembly in Quebec City to this day.

This report will grapple with Quebec’s policy of secularism, by studying a number of cases dealing with religion in the public sphere. The first section looks at the École de Technologie Supérieure de Montréal prayer room case, one of the cases taking place during the reasonable accommodation debate of the mid-2000s, to observe some of the issues raised by religious accommodation in a public, lay space. The second section studies more recent events dealing with head coverings and dietary restrictions, including Bill 94, a currently pending bill which would effectively forbid Muslim women receiving or dispensing government services to wear a *burka* or a *niqab*, a scandal related to the prominence of unlabeled *halal* meat sold or served to non-Muslim customers, and the Fédération de soccer du Québec turban case, which only recently resulted in the accommodation of Sikh, turban-wearing, soccer players. The third section examines cases where Catholic practices are actually tolerated in government institutions, including the continuing presence of the crucifix in the National Assembly and the recent Quebec court of appeal decision allowing Saguenay mayor Jean Tremblay to recite a prayer before municipal councils. The fourth section grapples with these seemingly contradictory decisions related to religion in the public sphere to attempt to decipher the present state of Quebec *laïcité*, addresses numerous definitions of *laïcité* and considers factors affecting *laïcité* in Quebec. The last section discusses the *Charte de la laïcité* proposed by the Parti Québécois in the 2012 electoral context, which seeks to enshrine an official definition of *laïcité* in Quebec and guidelines for religious accommodation.

Religious Accommodation in a Lay Space

During the early 2000s, cases of religious accommodation in government and lay institutions fed the reasonable accommodation debate which raged around 2006-2008. While Bouchard and Taylor (2008) actually concluded that there was no problem with current accommodation practices since most of them occurred without the participation of courts, the media described accommodations as a much greater problem. The École de Technologie Supérieure prayer room case was one such case on which the media reported in the early days of the reasonable accommodation crisis. While it is atypical of reasonable accommodation cases because it escalated to the Commission des droits de la personne and des droits de la jeunesse, the case is typical of pre-Bouchard-Taylor reasonable accommodations because the CDPDJ ruling highlighted a policy of tolerance and openness towards diversity, unless accommodations were overly constraining, when it comes to dealing with reasonable accommodations in lay institutions.

École de Technologie Supérieure prayer room case

The *Commission des Droits de la Personne et des Droits de la Jeunesse* (2006) decision on the École de Technologie Supérieure prayer room case outlines the history of the case. According to the CDPDJ decision, Muslims must pray five times a day, on clean carpets, and practice ritual ablutions of the hands and feet prior to praying. Muslim students at ETS had been requesting a prayer room since 1997, a demand which the school refused, claiming that it is a lay institution, and therefore is not required to reserve space for prayer. In the meantime, the students prayed in the stairwells of the school. In 2002, the ETS decided to remove, for security reasons, the carpets Muslim students left in the stairwells and to remove the carpets from the unlocked locker of a student who agreed to keep the carpets there for his peers, and also posted a notice in the stairwells demanding that they remain free at all times in case of emergency. Additionally, it was reported that Muslim students had been kicked out of halls and out of the library while praying by security guards, and that one student even quit school because he could not pray at school (Allison Lampert, April 3rd, 2003, *The Gazette*). Farid Ghanem, a PhD student who studied at ETS since 2001, explained that he left because of “the poisonous atmosphere created by the university,” lamented that “[a]t ETS, there’s a room for people who want to smoke[,]” but there is no room for people who wish to pray, and also complained that ETS authorities “would chase us [Muslim students praying] out of the stairs” (Allison Lampert, April 10th, 2003, *The Gazette*). The students brought their case before the CDPDJ in 2003.

The original complaint featured four elements: the ETS’s rejection of Muslim students’ request for a prayer room, the ETS’s refusal to recognize the status of the *Association des étudiant(e)s musulman(e)s de l’École de Technologie Supérieure*; the discriminatory nature of signs posted in washrooms indicating that it is prohibited to wash one’s feet in the washbasins; and the discriminatory nature of comments by an ETS administrator in *Le journal de l’École de Technologie Supérieure* stating that “if a student wants to practise his religion he just had to go to another university” [CDPDJ’s translation] (CDPDJ, 2006, p. 2).

Some reporters deemed the Muslim ETS students to be unreasonable in their demands. Journalist Michèle Ouimet (May 4th, 2003, *La Presse*) criticized the students' complaint. She maintained that the students accused the ETS of being racist and islamophobic, claims she felt were baseless, since the school did allow students to pray in its facilities, and only harmed the students' credibility. She also reported that students demanded the right to wash their feet in the washbasins of the school's bathrooms (which is inaccurate), a fight which she described as petty.

ETS's defense

In the CDPDJ case, The ETS maintained for its defense that it was a lay institution and therefore did not have to allocate a dedicated prayer room. ETS secretary-general Normand Trudel claimed that “[w]e are retaining our secular character,” that “[i]t’s not up to the school to give space for Catholics, Muslims or Jehovah’s Witnesses[,]” and that “[w]e treat them [Muslims] like everyone else” (Allison Lampert, April 3rd, 2003, *The Gazette*). Commentator J.D. Johnson (March 29th, 2006, *The Gazette*) also insisted that all Quebec public schools are secular and that no religious groups should expect room to be set aside for them, and instead should assume the “responsibility to supply their own place to worship.” On the other hand, Fo Niemi, director of the Centre for Research-Action on Race Relations, which represented ETS Muslim students in the CDPDJ case, maintained that “it’s a dangerous for a publicly funded institution to deny freedom of religion” and that “[b]eing nondenominational does not mean that they [ETS] have to ban all forms of religious expression” (Allison Lampert, April 3rd, 2003, *The Gazette*). Michèle Ouimet (May 4th, 2003, *La Presse*), despite her objections to the students' complaints, maintained that lending a room for Muslims to pray would not affect the lay status of the ETS.

It was reported in the press that ETS spokesperson Denis Morin also insisted that the ETS already allowed Muslims to pray in unused classrooms which are “disponibles de 7h le matin à 22h en soirée,”¹ (quoted in Allard, March 23rd 2006, *La Presse*), that, when the classrooms are not being used “any student can use them - they’re not locked” (quoted in *The Gazette* (Montréal), March 23rd 2006, *Canada.com*). Morin also insisted that “il y a une mosque tout près de l’ETS, à moins de 200 mètres[,]”² (quoted in Allard, March 23rd 2006, *La Presse*) and that, therefore, designating a prayer room was an unreasonable request. In the CDPDJ decision (2006), it was also stated it was the ETS’s policy not to “‘recognize student groups on a religious, sectarian or political basis’ [CDPDJ’s translation]” (p. 7), and that the school felt that the signs in the bathrooms were necessary for reasons of safety and hygiene.

Commission des Droits de la Personne ruling

The CDPDJ (2006) ruled in 2006 that the ETS did not discriminate Muslim students when they refused to recognize their association, that there was not enough evidence to rule on the issue of the ETS administrator’s alleged remarks, and that the signs prohibiting foot-washing did not involve discrimination because the school placed the signs on the basis of

¹ “available from 7AM to 10PM,”

² “there is a mosque close to ETS, fewer than 200 metres away.”

its rules of safety and hygiene. However it also determined that the ETS's status as a lay institution did not relieve it of its duty to accommodate Muslim students, and that it needed "to allow Muslim students to pray, on a regular basis, in conditions that respect their right to the safeguard of their dignity" (p. 15). The Commission decreed that the ETS needed to propose an accommodation to the plaintiffs that would preserve their dignity, and to remove from the ETS's application form the words that described the school as having "no rooms assigned for religious practices," (p. 16) within 60 days of the CDPDJ decision.

To support their decision, the CDPDJ (2006) insisted that it upholds the "principles enunciated in the Charter of human rights and freedoms[,]" (p. 10), a position reiterated by the Commission's interim president Marc-André Dowd in the press, maintaining that "[l]a liberté de religion protégée par la charte inclut le droit de manifester ses croyances religieuses par leur mise en pratique et par le culte"³ (Cauchy, March 23rd 2006, *Le Devoir*). The CDPDJ felt that Muslim students had the right to attend a university-level institution without being discriminated for their religious beliefs, that students "are entitled not to have to choose between their religious obligations and their attendance at a university" (Churchill, March 23rd, 2006, *The McGill Daily*) and that the previous arrangement disadvantaged Muslim students in pursuit of their education at ETS. Additionally, the Commission rejected the argument related to the nearby mosque, stating that the mosque did not exist when the case was first filed, and that the permanence of the mosque was uncertain because it occupied a space rented in a month to month tenancy (Radio-Canada, March 23rd, 2006). Moreover, the Commission was not satisfied with the students' previous arrangement, where they prayed in unused rooms, since the rooms were sometimes locked, according to the students, since it was difficult to gather in a single space to pray together and since it was inconvenient for Muslim students who wish to pray several times a day to have to change room throughout the day. Moreover, the Commission reviewed an overview of the ETS's room occupation for the year 2003-2004 which showed that classrooms "were occupied to their full capacity most of the time" (p. 6), which therefore demonstrates that the previous arrangement for Muslim students' prayer is not appropriate.

However, the CDPDJ (2006) did not require the ETS to provide a permanent prayer space exclusively for Muslims, since, according to Dowd "[l]'obligation d'accommodement raisonnable n'est pas absolue, elle a des limites"⁴ (Cauchy, March 23rd 2006, *Le Devoir*). Dowd explained that requiring the ETS to have a permanent prayer room for Muslims would cause "undue hardship since it could lead to similar demands from students of other denominations" (*National Post*, No date). The ruling did not impose any potential solutions but Dowd suggested that better access to unused classrooms or to less frequented communal areas, or the establishment of "aires de recueillement multiconfessionnelles"⁵ (Radio-Canada, March 23rd, 2006) would be acceptable solutions. Claude Olivier, the ETS's director of teaching and research, communicated the ETS's decision to not designate a

³ "The freedom of religion protected in the charter includes the right to manifest one's religious beliefs through their practice and through worship"

⁴ "The obligation of reasonable accommodation is not absolute, it has limits."

⁵ "multiconfessional contemplation areas"

prayer room for Muslim students, and its proposed solution of “giv[ing] to the students a copy of the schedule where all the classrooms are available outside the period where we are using it as a classroom” (CBC, March 28th 2006), a solution which some Muslim student found inconvenient. Lia Lévesque (March 27th, 2006, *Cyberpresse*) reported that, after the CDPDJ’s resolution, the ETS administrators felt they had already been doing enough to accommodate Muslim students, namely by letting them pray in unused classrooms, and reiterated that there was a mosque near the school where Muslim students could pray. A CBC article (March 28th, 2006) also mentioned that the ETS wanted the government to create guidelines on how to accommodate Muslim prayer in public institutions. At the time of CDPDJ ruling, McGill University was undergoing a similar issue when Muslim students were evicted from their prayer space in 2005. Though the McGill administration reviewed the ruling in the ETS case, it still maintained that it had no obligation to provide a dedicated prayer space (Churchill, March 23rd, 2006, *The McGill Daily*).

Though the Muslim community was generally satisfied with the ruling, Salam Elmenyawawi, president of the Muslim Council of Montreal decried that the decision took three years to appear, and that it failed to address the students’ demand for compensation (The Gazette (Montréal), March 23rd 2006, *Canada.com*). Even back in 2004, 18 months after the initial complaint, Elmenyawawi expressed his disappointment with the CDPDJ’s delay, explaining that “[u]n délai de justice, c’est un déni de justice,”⁶ and that members of the Muslim community may decide not to complain to the CDPDJ for their human rights issues because the Commission takes too much time to resolve cases, therefore losing the trust of Muslim people in Quebec (Clairandrée Cauchy, October 6th, 2004, *Le Devoir*).

Reflection on the place of religion in society

The Commission explained that it was necessary to reflect more globally on the place of religion in public space. Dowd stated that “[i]l s’agit en fait de déterminer la place que la religion doit occuper dans l’espace public québécois”⁷ (Allard, March 23rd 2006, *La Presse*). The ETS prayer room case is one of the many reasonable accommodation cases that fueled the 2007 debate. Bouchard and Taylor (2008) pointed out that the media had distorted the case, as was their practice during the crisis, by maintaining that students actually demanded a permanent prayer space when there was a mosque close-by, while in reality students obtained the right to use unoccupied classrooms and that the school retained its lay status. Bouchard and Taylor also maintained that the government needed to establish guidelines for accommodation, as the ETS requested. Yet, as it will be described in the next sections, to this day, institutions are still unclear when it comes to the place of religion in the public sphere.

Head Coverings and Dietary Restrictions in the Public Sphere in Recent Cases

With reasonable accommodations, painted as problematic and threatening, covered in the media in a disproportionate matter, religious accommodations, like that in the ETS prayer

⁶ “A delay in justice is a denial of justice.”

⁷ “It is necessary to determine the place that religion must occupy in Quebec’s public space.”

room case, began to be viewed as an issue, leading to the Bouchard-Taylor Commission. Unfortunately, the Commission does not seem to have solved the problem, with accommodations still being generally perceived as problematic. While the resolution of accommodations demands was, for the most part, relatively straightforward before the controversy, cases arising after the Bouchard-Taylor Commission seem to attract more media attention and contention among the general population and politicians. This section covers a selection of cases and events taking place after 2008, dealing with head coverings and dietary restrictions in the public sphere.

Some religions require believers to wear particular types of head coverings. In addition to the praying five times a day, Muslim women also wear a variety of head coverings, including the more common *hijab*, which covers most of the hair and neck, the *niqab*, which only leaves the eyes exposed, or the *burka* (or *burqa*), a head-to-toe covering worn in Afghanistan during the Taliban rule, which conceals the entire body, with the eyes covered by a net allowing the wearer to see (*CBC News*, December 19th, 2012). In the Muslim religion, believers are also subject to dietary restrictions, such as avoiding the consumption of pork and of non-*halal* meat, that is, meat not slaughtered in the appropriate ritual fashion. Moreover, the Sikh religion requires men to never cut their hair and to keep their uncut hair in a turban. The Muslim headdress has particularly been criticized and contested in Quebec, especially during the reasonable accommodations debate, while controversy over *halal* meat occurred during the 2012 electoral context. Issues with the turban have been prominent in recent months, with the Fédération de soccer du Québec turban ban case.

Bouchard and Taylor's Recommendations

In their report, Bouchard and Taylor (2008) concluded against absolutely prohibiting state agents from wearing religious symbols, such as the *hijab* or the turban. Their position is that “on ne devrait pas interdire le port d’un signe religieux du seul fait de son caractère religieux”⁸ (p. 150). If the religious symbol represents an excessive constraint, it can be prohibited, such as in the case of a teacher wearing a *burka*. For Bouchard and Taylor, an optimal balance can be reached by forbidding religious symbols for agents representing the highest authority of the state, such as judges or police officers, because their requirement for neutrality is higher than for other state employees (p. 151). When it comes to the Muslim veil, Bouchard and Taylor explains that, though some observers believe it to be a sign of the inferiority of women in Muslim culture, what is crucial in their perception of the veil is the autonomy of the woman wearing it; while a woman cannot be forced to wear the veil, she may also choose to wear it, in most circumstances (p. 145). Additionally, they maintained that dietary restrictions for religious groups should be accommodated, and denounced the increase of anti-Semitic incidents related to kosher certification (pp. 21 and 233).

⁸ “we should not forbid wearing religious signs only because of their religious character.”

Bill 94: An Act to Establish Guidelines Governing Accommodation Requests Within the Administration and Certain Institutions (2011)

Background

In 2010, an Egyptian-born Muslim woman, Naema Ahmed, refused to remove her *niqab* in French language CEGEP classes, after her teacher requested that she do so, so that they may better correct her pronunciation by seeing her lips, and was expelled from the classes. She then filed a complaint with the Quebec Human Rights Commission (CBC News, December 12, 2011). Ahmed's intentions in filing a complaint have attracted polarized opinions. While some believe that she simply sought to protect her freedom of religion, for Barbara Kay (No date, *National Post*), "Ahmed's indifference to the sensibilities of her classmates and her general belligerence were helpful in reinforcing the public's impression that she was making a political rather than a religious statement." Indeed, scholar Ariane Brunet (2011) suggests that in such issues of contested religious symbols in the public sphere, what causes a problem in Quebec is not the wearer's freedom of thought but the actual wearing of religious signs, when in reality, wearing religious symbols should be "understood as one of the spearheads of the rise of fundamentalisms and as a political use of religion" (p. 219). Ahmed's issue led to a debate in the media over the meaning of the veil, with the veil interpreted as a "means of repression, a public safety risk, an indicator of fundamentalism, and a form of religious expression that must, in democratic societies, be tolerated" (Wildman, April 22nd, 2010, *Politics Daily*), and to the redaction and proposal of Bill 94, sponsored by provincial Justice minister Kathleen Weil.

Bill 94: What does it seek to do?

Bill 94 (2010) would require for people requesting government services and government representatives to interact with uncovered faces, and rejects accommodation of this rule for "reasons of security, communication or identification[.]" (article 6) thus effectively prohibiting the *burka* and *niqab* for people receiving and dispensing government services. Muslim women wearing the *hijab*, and other public servants wearing religious symbols would be unaffected (Dan Delmar, 2009, *The Suburban News*). While journalist Jocelyn Richer (June 5th, 2011, *La Presse*) claims that the bill seeks to provide guidelines for state employees dealing with requests for accommodation from women whose covered faces do not allow for identification, for scholar Kyle Conway (2012, p. 201) the bill does not address ambiguous interpretations of "reasonable," "accommodation" and of the Muslim veil itself.

Arguments of Supporters of Bill 94

Some supporters of Bill 94 based their position on practical concerns. Many journalists and scholars maintained that it was necessary to prohibit the *burka* for reasons of public security, with some of them citing cases of bank robbery committed by people wearing a *burka* in Canada and around the world (Laura Payton, July 28th, 2010, *Canoe*; *La Presse Canadienne*, October 7th, 2009, *La Presse*; Paul Journet, April 22th, 2010, *La Presse*; Agnès Gruda, October 9th, 2009, *La Presse*; Guy Durand, 2011, p. 124). Others, including Charles Taylor and human rights lawyer Julius Grey also explained that the *burka* and *niqab* hinder

communication and identification, and should especially not be tolerated when it comes to public functions (Agnès Gruda, October 9th, 2009, *La Presse*; Paulo Senra, January 20th, 2011, *Paulotics*).

The majority of Bill 94 supporters argued that the bill was necessary to protect Quebec values. Immigration Minister Yolande James, Prime minister Jean Charest, and other commentators maintained that the *burka* did not correspond to Quebec values, namely that of secularism and face-to-face interactions, and that, as stated by Charest, the bill “is not about making our home less welcoming, but about stressing the values that unite us” (quoted in Sarah Wildman, April 22th, 2010, *Politics Daily*; Dan Delmar, 2009, *The Suburban News*; *Poste de Veille*, February 1st, 2010; Barbara Kay, No date, *National Post*; *Christian Broadcasting Network*, March 25th, 2010). Peter Worthington (March 30th, 2010, *Toronto Sun*) explains that, because “[o]urs is a society that prides itself on face-to-face dealings,” “having to do business with someone who refuses to have their face seen, is offensive and demeaning – to both parties.” Moreover, Farhad Khosrokhavar, an Iranian scholar, explains that the *burka* offends many Westerners because, in Western culture, “people are associated intimately with their faces” and they view “this full veil [as] a denial of personhood, of individuality” (quoted in Sarah Wildman, April 22th, 2010, *Politics Daily*).

Most supporters of the bill viewed the full veil as a misogynistic practice that needs to be prohibited to protect the equality of men and women in Quebec. Many journalists and commentators described the veil as a symbol of women’s subservience that threatens gender equality (Laura Payton, July 28th, 2010, *Canoe*; *Poste de Veille*, February 1st, 2010; Paul Journet, April 22th, 2010, *La Presse*; Sarah Wildman, April 22th, 2010, *Politics Daily*; Paulo Senra, January 20th, 2011, *Paulotics*; Barbara Kay, No date, *National Post*). Scholar Louise Mailloux (2011) describes the veil as symbolic of a patriarchal sexual order which views women as goods to be controlled, and not as a symbol of modesty (pp. 75 and 97). While Bouchard and Taylor maintain that a woman’s choice to wear the veil is more important than the veil’s meaning, for Guy Durand (2011), voluntary choice does not trump the veil’s objective symbolism of women’s subordination in Islam (p. 125). In addition to rejecting voluntarism to justify wearing the *burka* or *niqab*, some commentators go as far as to question Muslim women’s decision-making capabilities and their ability to determine whether they are oppressed or not (Peter Worthington, March 30th, 2010, *Toronto Sun*). A *Poste de Veille* blogger (February 1st, 2010) claims that “aucune femme libre et saine d’esprit ne ferait le choix de porter [la *burka*][.]”⁹ Barbara Kay (March 26th, 2010, *National Post*) paints Muslim women wearing the veil as virtual prisoners incapable of exercising their freedom of choice, while Paul Journet (April 22th, 2010, *La Presse*) calls for the State to help Muslim women emancipate themselves with Bill 94. Jocelyn Parent (2011) claims that “[l]e niqab, le voile (hijab) et la burqa sont des gestes militants, sciemment institués par des femmes téléguidées par des islamistes, à moins qu’elles ne soient ignorantes de la proper signification du vêtement qu’elles portent”¹⁰ (p. 150).

⁹ “no free and sane woman would choose to wear [the *burka*]”

¹⁰ “The niqab, the veil (hijab) and the burqa are militant gestures, purposefully instituted by women remote-controlled by Islamists, unless they are ignorant of the very signification of the garment they wear.”

Moreover, some journalists stated that the bill would encourage and help Muslim immigrants to integrate to their new society by not only respecting Quebec laws, but also by respecting Quebec customs and secularism (Mathieu Bock-Côté, April 13th, 2011, *24 Heures Montréal*). For Peter Worthington (March 30th, 2010, *Toronto Sun*), “[i]t’s neither ‘scary’ nor ‘threatening’ to expect people to adapt to the cultural mores of their new homeland.” For Barbary Kay (March 26th, 2010, *National Post*), the bill “has nothing to do with religion, and everything to do with integration and equality[,]” and also maintained that, since there were only about twenty women in Quebec wearing the *niqab*, the law would be easily implemented and send a clear message to those considering wearing the *burka* or the *niqab*.

Arguments of Opponents of Bill 94

First, some commentators opposed the bill because they felt it did not go far enough, since prohibiting the *niqab* and *burka* would normalize the *hijab*, while there is no difference in the symbolic meaning of the *hijab*, *burka* and *niqab* (Mathieu Bock-Côté, April 13th, 2011, *24 Heures Montréal*). According to Jean Tremblay, mayor of Saguenay, the veil should actually be banned everywhere and not just in public spaces (Martine Jacot, May 20th, 2010, *Le Monde*). Author Jocelyn Parent (2011) feels that since the only religious expression the bill prohibits is the wearing of the *burqa* and *niqab*, then it must therefore lead to the official toleration of other religious expressions in the public sphere, so long as they do not threaten security, communication and identification. He believes that the bill does not go far enough in prohibiting religious symbols in government institutions, implicitly endorses Canadian multiculturalism, and represents a form of discrimination against non-believers (pp. 152-5).

On the other hand, other opponents genuinely disagreed with the purpose of the bill. The Muslim Council of Montreal, and other commentators, argued that the Charter of Rights and Freedom guarantees the freedom of religion and conscience and that the “state has no business in the wardrobes of the nation” (quote in Sarah Wildman, April 22th, 2010, *Politics Daily*; Agnès Gruda, October 9th, 2009, *La Presse*). Wahida Valiante, president of the Canadian Islamic Congress, insists that, in Canada, “les gens on le droit de s’habiller comme ils veulent[,]”¹¹ while Alia Hogben, president of the Canadian Council of Muslim Women, argues that “[s]i le Canada interdit le niqab, il ne fera pas mieux que les pays qui obligent les femmes à se couvrir[,]”¹² and that “[i]nterdire ou obliger, c’est la même chose”¹³ (quoted in Agnès Gruda, October 9th, 2009, *La Presse*). Thus, these women maintain that it is a woman’s choice to wear the *burka* or not and that the state has no business in legislating these decisions.

While some insisted that the bill would facilitate integration, philosopher Daniel Weinstock and professor of law Pascale Fournier argued that the bill would only encourage *burka*-clad women to stay home, and that the result of the bill would be the opposite of integration (Paul Journet, April 22th, 2010, *La Presse*). Moreover, Farhad Khosrokhavar

¹¹ “people have the right to dress however they want.”

¹² “If Canada prohibits the *niqab*, it will do no better than countries who force women to cover themselves.”

¹³ “to prohibit or to enforce [wearing the *burka* or *niqab*], it’s the same thing.”

pointed out that while some Muslim women in the West disapprove of the total veil, they also felt that the bill would only stigmatize Muslims as a whole (Sarah Wildman, April 22th, 2010, *Politics Daily*).

For political blogger Paulo Senra (January 20th, 2011, *Paulotics*), Bill 94 represents little more than political opportunism. He insists that the Bloc Québécois “are championing this initiative because it ignites the silent anger in people” because “it gives the Bloc the opportunity to defend the flawed notion that Quebec ‘values’ are different than those in the rest of the country.” Salam Elmenyawawi of the MCM views the bill as “vote-grabbing more than anything else” and questioned the need to create a bill affecting an extremely small minority of the population (The Canadian Press, March 24th, 2010, *CTV News*). Thus, these commentators questioned the purpose of the bill, given the intentions of its supporters.

Outcome: Where is Bill 94 now?

The bill reportedly attracted much popular support in Quebec and in Canada, with Francophones and Anglophones mostly agreeing on the issue (Sarah Wildman, April 22th, 2010, *Politics Daily*). Barbara Kay (March 26th, 2010, *National Post*) claims that “all of us – separatists, federalists, left-wingers, right-wingers, Christians, atheists, democratic Muslims, francophones, Anglophones, allophones – are happy a line in the sand has been drawn on reasonable accommodation.” Of course, an overview of the debate reveals that Bill 94 attracted a number of opponents, as well as supporters.

Despite the seemingly overwhelming support for the bill described in the media, journalist Jocelyne Richer (June 5th, 2011, *La Presse*) reported that, fifteen months after the bill’s initial introduction, the National Assembly had yet to even study its first article. Interestingly, Liberals blamed PQ opposition for the bill’s stagnation. Like other commentators, PQ opponents felt that the bill actually did not do enough; to protect the lay character of the state, the PQ argued that all religious symbols should be prohibited in the public administration (Jocelyn Parent, 2011, p. 155). Liberals refused to modify their bill so the PQ would allow it to pass, since they insisted that the neutrality of the state is best served by respecting religious expression in most cases. On the National Assembly website page for bill 94, the last entry in the committee stage of the bill is dated September 28th, 2011. Thus, the bill has yet to pass and the issue of the religious symbols in the public space has yet to be solved.

Unlabeled *Halal* Meat for General Consumption in 2012

Background

Halal meat is produced during a ritual which commences with an imam’s expression of gratitude to God, followed by the ritual cutting the throat of an animal, before letting it bleed out, during the recitation of an Islamic prayer (Andrew Chung, March 15th, 2012, *Toronto Star*; The Canadian Press, March 14th, 2012, *CBC News*; Rhéal Séguin, March 14th, 2012, *The Globe and Mail*).

Before controversy arose in Quebec, a scandal over *halal* meat burst in France when Front National leader Marine Le Pen claimed that *halal* meat was widely sold to unsuspecting Parisians, even going as far as suggesting that all meat distributed on Île-de-France is *halal*, and framed the issue as an attack on French national identity (Rhéal Séguin, March 14th, 2012, *The Globe and Mail*; *The Globe and Mail*, March 15th, 2012; Lili Boisvert, March 15th, 2012, *Radio-Canada*; Valérie Amirault and David Koussens, March 26th, 2012, *Le Devoir*). The problem became a focus of the French presidential campaign. The French scandal was picked up by media personalities in Quebec, including Mario Dumont, the former leader of the now defunct ADQ and current daily commentary television show host (Rhéal Séguin, March 14th, 2012, *The Globe and Mail*). The controversy mounted as the media unearthed instances where *halal* meat has become the standard for general consumption, including a case where a daycare served *halal* meat to all children under their care to accommodate a few Muslim children and to avoid the cost of buying two types of meat. It has also been reported that unlabelled *halal* meat is widely sold to the general public (Andrew Chung, March 15th, 2012, *Toronto Star*).

The controversy over *halal* meat also became an electoral issue in Quebec in the 2012 election, with the PQ demanding a report on the ritual slaughtering of animals in the province and the obligatory labelling of *halal* meat. The PLQ and CAQ jumped on the bandwagon as well and insisted that labelling of *halal* meat should be obligatory (Lili Boisvert, March 15th, 2012, *Radio-Canada*; *Radio-Canada*, March 15th, 2012). According to PQ agricultural critic and veterinarian André Simard, while religious slaughter is acceptable as a religious accommodation, it should remain the exception when it comes to slaughtering practices in Quebec. However, he decried that “the exception [has become] the rule[,]” and that is problematic (quoted in Andrew Chung, March 15th, 2012, *Toronto Star*).

Arguments for Obligatory Labelling of Halal Meat

For Simard and other PQ commentators, ritual slaughter collides with Quebec values, especially because they consider it inhumane. Simard explained that “[c]et abattage implique un rituel, le sectionnement de la gorge et le saignement de l’animal encore vivant. Comme vétérinaire, je peux vous dire que ce type d’abattage ne correspond pas, selon moi, aux valeurs du Québec”¹⁴ (quoted in *La Presse Canadienne*, March 15th, 2012, *Le Devoir*). Simard insisted that in Quebec, the choice was made to desensitize animals and minimize their suffering before slaughtering them for consumption, which he deems is a humane method of slaughtering (Lili Boisvert, March 15th, 2012, *Radio-Canada*; Rhéal Séguin, March 14th, 2012, *The Globe and Mail*). Moreover, the CAQ, PQ and PLQ agree that consumers have a right to know what they are buying, and that meat from animals slaughtered inhumanely should be labelled so that consumers may be informed (*The Canadian Press*, March 14th, 2012, *CBC News*).

In addition, PQ commentators like Simard have expressed concerns over the dangers of food contamination associated with *halal* ritual slaughtering. Simard explained

¹⁴ “This slaughtering implies a ritual, the sectioning of the throat and the bleeding of the animal while it is still alive. As a veterinarian, I can tell you that this type of slaughtering does not correspond, in my opinion, to Quebec’s values.”

that “[q]uand l’animal est suspendu pour assurer une bonne saignée, il y a un refoulement, une sortie du tube gastro-intestinal. [...] Or la maladie du hamburger a été identifiée comme provenant du système gastro-intestinal des bovins”¹⁵ (quoted in La Presse Canadienne, March 15th, 2012, *Le Devoir*).

Lastly, PQ candidate and vocal critic of Islamic fundamentalism Djemila Benhabib, a Muslim woman of Algerian descent, insisted that continuous mandatory consumption of *halal* meat among Muslim immigrants serves as a tool to preserve the purity of the Muslim community by excluding them from the rest of society, and to “étendre l’emprise islamique sur les communautés immigrantes”¹⁶ (quoted in Valérie Amiriaux and David Koussens, March 26th, 2012, *Le Devoir*). Therefore, for Benhabib, Quebec meat producers should not facilitate *halal* consumption, and *halal* meat should not be prevalent in general consumption.

Arguments against Obligatory Labelling of Halal Meat, and against the Debate over the Issue

For some commentators, the controversy over *halal* meat actually has little to do with animal rights or sanitation, and more to do with intolerance toward Muslims (*The Globe and Mail*, March 15th, 2012; Valérie Amiriaux and David Koussens, March 26th, 2012, *Le Devoir*). Imam Mohamed Ghaleen felt that the controversy is little more than a tempest in a teapot which is mostly reflective of a lack of understanding of the Muslim community (The Canadian Press, March 14th, 2012, *CBC News*). Valérie Amiriaux and David Koussens (March 26th, 2012, *Le Devoir*), both university professors, did not mince words in their article and explained that islamophobia, evidenced in such issues as the *halal* meat scandal, is simply racism, since “[l]a dimension religieuse [de l’islamophobie] ne doit pas nous faire minimiser la violence des propos et leur effet sur les représentations qui circulent sur des populations que nous croisons et côtoyons chaque jour[.]”¹⁷ and that it is dangerous for a society to blame its hard times on its immigrants. Moreover, the scholars denounced the idea that the prevalence of *halal* meat in the regular market is a sign of increasing islamization, since only 1.5% of the population identifies as Muslim, pork, a meat prohibited by Islam, is still commonly consumed in Quebec, and reasonable accommodation demands by Muslims represent only 28% of all demands made between 2000 and 2006.

Many commentators also pointed out that the presence of unlabelled *halal* meat in the market harms no one (*The Globe and Mail*, March 15th, 2012). Olymel, a large Canadian poultry and pork producer which had its St-Damase poultry plant certified *halal*, came under fire during the controversy. It defended its practices by explaining that their *halal* chicken is “the same chicken, the same quality, the same meat” (quoted in Andrew Chung,

¹⁵ “When the animal is suspended to insure it bleeds out well, there is a backflow, a spilling out from the gastrointestinal tube. [...] Yet hamburger disease has been confirmed to stem from the gastrointestinal system of bovines.”

¹⁶ “extend Islamic grasp over immigrant communities.”

¹⁷ “The religious dimension [of islamophobia] must not allow us to minimize the violence of some statements and their effect on circulating representations of populations that we come across and live with every day.”

March 15th, 2012, *Toronto Star*) as their non-*halal* chicken, which meets all standards and regulations and which is produced using their same slaughtering practices as non-*halal* meat, since the plant does not actually participate in ritual slaughtering. Olymel's method, which their spokesperson Richard Vigneault insisted is humane, is to "stun the poultry with an electric shock first and then slaughter it mechanically" (The Canadian Press, March 14th, 2012, *CBC News*). Imam Marzougui Habib insisted that the process to produce *halal* meat can easily be conciliated with desensitization techniques prevalent in the industry (Lili Boisvert, March 15th, 2012, *Radio-Canada*). Indeed, effectively, the only change brought to Olymel's practices with their *halal* certification is that an imam blesses the chickens before slaughtering (La Presse Canadienne, March 15th, 2012, *Le Devoir*). Mohamed Ghaleen, the imam in charge of conducting the ritual in the St-Damase plant, explained that the public is quite misinformed about what takes place in the production of *halal* meat, since the same slaughtering methods are used for *halal* and non-*halal* meat, and that the only difference is that imams like him conduct a prayer before the slaughter (Rhéal Séguin, March 14th, 2012, *The Globe and Mail*). Moreover, Olymel claimed that to offset the cost of the salary of the imams who bless chickens, only the price of meat labelled as *halal*, destined to the *halal* meat market, is affected. Lastly, veterinarian Joël Bergeron explained that there is actually no risk of contamination if the ritual slaughtering technique, which is large plants like Olymel's do not engage in anyway, is executed correctly (*Radio-Canada*, March 15th, 2012). Therefore, since *halal* meat is not dangerous and is essentially identical to non-*halal* meat, labelling it is not necessary and the alleged prevalence of *halal* meat in the regular market is a non-issue. Lastly, for journalist Chris Selley (June 11th, 2013, *National Post*) and for members of the Muslim community (in The Canadian Press, March 14th, 2012, *CBC News*; Rhéal Séguin, March 14th, 2012, *The Globe and Mail*) animal rights were never the main concern of the PQ, who mostly sought to create polemics to rally its Francophone nationalist base in an electoral context, and therefore adopted an alarmist stance towards and mischaracterized the issue of unlabelled *halal* meat.

Outcome: Waiting for the Federal Minister

In April 2012, about a month after the controversy first erupted and following incessant requests from the PQ, agriculture minister Pierre Corbeil investigated the issue of ritual slaughtering more closely, especially when it came to the financial impact of *halal* certification on the cost of meat and of the government's provision of *halal* meat in prisons or government-financed daycares, another concern André Simard expressed. As for the labelling of products, which is a federal responsibility, Corbeil, who agrees that such labelling should be mandatory, sent a letter to Gerry Ritz, the federal minister of Agriculture, to change relevant regulations (Claudette Samson, April 18th, 2012, *La Presse*). It seems that the issue has yet to evolve beyond this point.

2013 Sikh soccer players case

Background

Another more recent case dealing with religious head coverings in the public sphere is the Fédération de soccer du Québec (FSQ) ban of turbans, worn by Sikh players as a

fundamental tenet of their religious belief, on the soccer field. The Canadian soccer association (CSA) suspended the FSQ as a result of the provincial institution's refusal to rescind the ban, resulting in the inability of Quebec soccer teams to play outside of the province and threatening their participation in the upcoming Canada Games, which will take place in Sherbrooke, Quebec (Michelle Gagnon, June 13th, 2013, *CBC News*).

Arguments of Supporters of the Turban Ban

As reported in the press, the FSQ's position rested on two points. First, the FSQ believed it was necessary to study the issue of security around the turban before allowing it. Second, the FSQ claimed to be following existing Fédération Internationale de Football Association (FIFA) regulations regarding the wearing of turban (since it does not explicitly allow it) and deemed it necessary to wait for clearer instructions from FIFA before permitting the turban on soccer fields (Gaétan Pouliot, June 12th, 2013, *Le Devoir*; Philippe Teisceira-Lessard, June 14th, 2013, *La Presse*; Bertrand Marotte, June 16th, 2013, *The Globe and Mail*). For journalist Jackson Doughart (June 13th, 2013, *Prince Arthur Herald*), what is most important is following the rules and consistency. He explains that the ban on headgear, whether religious or not, "existed before it was challenged for religious bias," and that if "Sikh players are allowed to wear a turban, that it must be held that anyone can wear any other piece of headgear that they like[.]" thus removing the religious quality of the turban in his analysis. For Doughart, wearing the turban is an individual choice "which is not impinged by a soccer body's decision to prohibit it[.]" since playing soccer is also a choice in the first place.

Prime Minister Pauline Marois quickly rallied behind the FSQ's decision, claiming that she "think[s] the Quebec federation has the right to establish its own regulations" (quoted in Chris Selley, June 11th, 2013, *National Post*) and that "[e]lle est autonome[.] [e]lle n'est pas assujettie à l'Association canadienne"¹⁸ (quoted in Gaétan Pouliot, June 12th, 2013, *Le Devoir*). Minister for democratic institutions and active citizenship Bernard Drainville agreed with the Prime minister and insisted that "[i]t is not up to the Canadian association to decide what is going on [on] Quebec soccer fields – this power belongs to the Quebec Soccer Federation" (quoted in Michelle Gagnon, June 13th, 2013, *CBC News*). Therefore, some supporters of the ban adopted their position because of the perceived autonomy of the FSQ.

Some commentators went much further than that when it came to the singularity of Quebec. For CEGEP professor Frédéric Bastien (June 14th, 2013, *Le Devoir*), the CSA's pressure on the FSQ to change its policy is symptomatic of Rest of Canada-Quebec relations. For Bastien, Canadian multiculturalism, an approach which informs the CSA's position on the turban and which "a toujours eu comme finalité de banaliser le statut du Québec comme peuple fondateur[.]"¹⁹ is a tool for Canadians to discriminate and assimilate French-Canadians. He maintains that, in the turban ban case, Canadians "se drapent d'une fausse

¹⁸ "It is autonomous. It is not subject to the Canadian Association."

¹⁹ "has always had as its goal to trivialize Quebec's status as a founding people."

tolérance dans le but précis de nous attribuer ce rôle d'opresseur."²⁰ Therefore, not only does the CSA impede on the FSQ's decision making power, Canadian attitudes towards the Quebec turban ban reflect the oppressive nature of Canadian/Québécois relations.

Moreover, for Bastien (June 14th, 2013, *Le Devoir*), the very religious meaning of the turban is a reason to forbid it, not only because it is necessary to protect the neutrality of the public sphere, but because of the message and worldview the turban conveys. Bastien describes the act of wearing a turban as "prosélytisme religieux"²¹ and argues that

"ce symbole religieux est un condensé de vérité. Il évoque une vision du monde partagée par un groupe. Ce geste ostentatoire est incompatible avec l'esprit collectif qui doit être celui d'une équipe de soccer évoluant dans une ligue. [...] L'uniforme sert à les [les joueurs de soccer] intégrer, à leur inculquer l'esprit de corps et en définitive à favoriser la victoire."²²

Therefore, while most supporters of the ban stick to reasons of security or the FSQ's autonomy, Bastien points to a discomfort with the religious nature of the turban.

Arguments of Opponents of the Ban

Other commentators denounced the position of the FSQ and of the Quebec government. First, some reporters questioned the FSQ's autonomy and its understanding of FIFA's rules. Journalist Chris Selley (June 11th, 2013, *National Post*; June 17th, 2013, *National Post*) maintained that the FSQ is clearly subject to the CSA, or the Canadian association would not have the power to suspend the provincial federation, and that it is the CSA's duty to enforce the rules and therefore not to bend to Quebec politics, "which is what it did." Selley, as well as Éliane Brisebois (June 15th, 2013, *Le Devoir*) point out that the FSQ is the only soccer federation in Canada and in the world to ban turbans. Moreover, journalists Michael Dentandt (June 5th, 2013, *Ottawa Citizen*) and Patrick Lagacé (June 11th, 2013, *The Globe and Mail*) both maintain that the FSQ misunderstood FIFA's rules; not only does rule four, concerning equipment and clothing, allow flexibility at the officials' discretion (allowing for equipment that is not explicitly permitted, such as gloves when the weather is cold or hair accessories for women), FIFA also explicitly lets Muslim women wear the *hijab* on the field. Therefore, the "spirit of the rules is tolerance" (Patrick Lagacé, June 11th, 2013, *The Globe and Mail*), which the FSQ seemed to not understand. Additionally, Dentandt points out that in other contexts, such as the military or the RCMP, it has been deemed safe for Sikhs to wear the turban in the exercise of the functions.

Moreover, for many commentators, the FSQ's claims of concern over safety are dubious, especially because there is not a single incident that the FSQ can evoke to support its position (Michael Dentandt, June 5th, 2013, *Ottawa Citizen*; Michelle Gagnon, June 13th, 2013, *CBC News*; Guillaume Bourgault-Côté, June 15th, 2013, *Le Devoir*; Patrick Lagacé, June

²⁰ "cover themselves with a fake tolerance with the precise goal in mind to attribute us [Québécois] the role of oppressor."

²¹ "religious proselytism"

²² "this religious symbol is a digest of truth. It evokes a worldview shared by a group. This ostentatious gesture is incompatible with the collective spirit a soccer team playing in a league must possess. [...] The uniform seeks to integrate them [soccer players], inculcate them with team spirit, and definitively facilitate victory."

11th, 2013, *The Globe and Mail*). Guillaume Bourgault-Côté (June 15th, 2013, *Le Devoir*) also points out that there are much more pressing and obvious security issues, such as dangers related to concussions, that the FSQ need to address instead of wasting its time with imaginary dangers associated with the turban.

Moreover, many opponents of the ban decried that Pauline Marois and her government had seized the controversy and spun it into a nationalist issue, after the FSQ's suspension. Michelle Gagnon (June 13th, 2013, *CBC News*) explains that Marois supported the FSQ's decision only because it was taken by a Québécois institution. Chris Selley (June 11th, 2013, *National Post*) and Guillaume Bourgault-Côté (June 15th, 2013, *Le Devoir*) insist that Marois constantly seeks out threats to exploit for political gain and to perpetuate a dynamic of confrontation with the Rest of Canada. Selley (June 11th, 2013, *National Post*) claims that

“[t]his strategy of inventing or cultivating grievances with Ottawa and the Rest of Canada, then hawking them to Quebecers as proof of their own unrealized misery, is so dreary, negative and insultingly transparent as to make one pine for the finger tenting scheming of Jacques Parizeau.”

For these commentators, Marois' actions are particularly shameful because the issue in question mostly affects children trying to play soccer, without caring about the xenophobic undertones of her position.

Indeed, for many observers, the FSQ decision is bigoted, intolerant and even racist (Michael Dentandt, June 5th, 2013, *Ottawa Citizen*). LPC leader Justin Trudeau described the FSQ's ban as an intolerant rule (Gaétan Pouliot, June 12th, 2013, *Le Devoir*). For Patrick Lagacé (June 11th, 2013, *The Globe and Mail*), the comments of Brigitte Frot, president of the FSQ, revealed the federation's true feelings. Under criticism against her federation's decision, Frot declared that “[t]hey [Sikh players] can play in their backyard. But not with official referees, not in the official rules of soccer” (quoted in Patrick Lagacé, June 11th, 2013, *The Globe and Mail*). For Lagacé, this comment revealed exclusionary and intolerant intentions in the FSQ's policy.

Moreover, according to Michael Dentandt (June 5th, 2013, *Ottawa Citizen*), Bal Gosal, the federal minister of State (Sport) (Gaétan Pouliot, June 12th, 2013, *Le Devoir*), as well as Balkirat Nirbal, a young Sikh soccer player (in Anne-Lovely Étienne, June 13th, 2013, *Le Journal de Montréal*), the decision is a violation of the Charter of Rights and Freedoms, at least in spirit. For Sikh players, the turban ban was of course unacceptable because of the religious significance of the turban, coupled with their right to freedom of religion. Public removal of the turban is a fundamental violation, since the turban represents a Sikh's devotion to God, and “his commitment to being an upstanding person” (Michael Dentandt, June 5th, 2013, *Ottawa Citizen*). Pritpal Ghotra and Dilpreet Singh, two Sikh teenaged soccer players, believe that having to remove their turban would be to deny their identity and that the turban is a symbol of discipline which represents “le droit chemin[,]”²³ with Singh even

²³ “the straight and narrow way”

claiming that “[j]e préfère même mourir si on m’empêchait de pratiquer ma religion librement”²⁴ (quoted in Anne-Lovely Étienne, June 13th, 2013, *Le Journal de Montréal*).

Outcome: Revoking the Turban Ban

FIFA’s intervention led to a resolution of the case. FIFA explicitly permitted the turban, with four conditions: it must be the same colour as the jersey, it must have a professional appearance, it must not be tied to the jersey and it must not jeopardize the safety of the player or other players (Charles Dubé, June 14th, 2013, *La Presse*). The FSQ reportedly was glad to have received a clarification from FIFA to ensure the safety of players, and lifted the ban on turban, resulting in the end of the FSQ’s suspension (CBC, June 15th, 2013, *Huffington Post*; *La Presse Canadienne*, June 15th, 2013, *La Presse*; Agence QMI, June 15th, 2013, *Le Journal de Montréal*).

Brigitte Frot claimed that the FSQ was only concerned with technical aspects and not with religious questions or politics, and that the debate had spun out of control (CBC, June 15th, 2013, *Huffington Post*; *La Presse Canadienne*, June 15th, 2013, *La Presse*; Agence QMI, June 15th, 2013, *Le Journal de Montréal*). Moreover, Pauline Marois also denounced the depiction of the debate as racist in the Rest of Canada (CBC, June 15th, 2013, *Huffington Post*; Agence QMI, June 15th, 2013, *Le Journal de Montréal*).

The World Sikh Association of Canada was satisfied with the outcome, but was saddened that FIFA’s intervention was even necessary (Philippe Teisceira-Lessard, June 14th, 2013, *La Presse*). The Association also explained that the Sikh community had gained many supporters across Canada and Quebec as a result of the controversy, which was “an opportunity for the Sikh community to maybe educate people about who we are and on the significance of the turban” (Bertrand Marotte, June 16th, 2013, *The Globe and Mail*).

For Chris Selley (June 17th, 2013, *National Post*), this debate is only the first skirmish in a larger war over the place of religion in the public space and the enshrinement of Quebec’s view of secularism, which Patrick Lagacé (June 11th, 2013, *The Globe and Mail*) coined “Catho-secularism,” since the Quebec government, while demanding the retraction of religious expression in the public sphere, has also explicitly insisted on the protection of remnants of Catholic presence in government institutions.

The Presence of Catholic Symbols in the Public Sphere

While the government’s position on Bill 94, *halal* meat, and the turban seems to point towards the prohibition of religious symbols in the public sphere, two other events point in a different direction. First, a Crucifix still hangs to this day in the National Assembly, and, as of May 2013, Saguenay mayor Jean Tremblay, a practicing Catholic, has won a case in the Quebec Court of Appeal allowing him to recite a prayer before municipal council meetings. These two realities complicate the picture of the place of religious symbols in the public sphere and raise a number of questions about the definition and applications of Quebec

²⁴ “I would rather die if I am not allowed to practice my religion freely.”

laïcité. While reasonable accommodation cases after the Bouchard-Taylor Commission have attracted much contention, the presence of Catholic symbols in government institutions have also garnered polarized opinions.

Bouchard and Taylor's Recommendations

To protect the separation of Church and State and the neutrality of the State, Bouchard and Taylor (2008) recommended that the crucifix in the National Assembly be removed (pp. 20, 152 and 260), an action first proposed by then-PQ leader André Boisclair, in 2007 (p. 56). Bouchard and Taylor also recommended that prayers before council be stopped because it was necessary to “éviter que des pratiques qui constituent dans les faits une forme d'identification de l'État à une religion – la plupart du temps celle de la majorité – soient maintenues sous prétexte qu'elles ne comporteraient plus aujourd'hui qu'une valeur patrimoniale[.]”²⁵ (p. 152) much like supporters of the crucifix and prayer before council argue.

The Crucifix in the National Assembly, 2008 to 2014

Background

The crucifix in the National Assembly was originally placed there in 1936, during the Maurice Duplessis era, also known as the “Grande Noirceur”²⁶ (1936-1959). As opposed to previous liberal governments between 1897 and 1936 which entertained tensed relations with clerical authority, the right-wing, conservative policies of Duplessis' Union Nationale attracted the support of the Catholic Church, eager to extend its political power (Jacques Rouillard, January 27th, 2007, *Le Devoir*). Once he was elected, Duplessis placed the crucifix where it hangs today as a clear political gesture showcasing the alliance between the Church and the State. As a result of this alliance, the influence of the Church grew in the domains of education, health and social services (Jacques Rouillard, January 27th, 2007, *Le Devoir*; Ercilia Palacio-Quintin, August 18th, 2012, *Le Devoir*).

The period following the “Grande Noirceur,” known as the “Révolution tranquille,”²⁷ which started around 1960, saw a gradual separation between Church and State, with the government of Jean Lesage and his successors taking responsibility over domains the Church previously controlled. Most religious relics in government institutions were cast aside, except for the Crucifix in the National Assembly (Magali Paquin, 2012, pp. 11-2).

Controversy arose after Bouchard and Taylor's recommended in their report to remove the crucifix from the National Assembly. In the wake of the reasonable accommodations debate, the crucifix became a national symbol, a “point de ralliement, le

²⁵ “avoid maintaining practices which in reality constitute a form of identification of the State to a religion – more often than not that of the majority – under the pretext that their only value today would be a patrimonial one.”

²⁶ “Great Darkness.”

²⁷ “Quiet Revolution.”

symbole de l'attachement de la majorité à sa propre identité forgée par son passé"²⁸ (Joseph Facal, March 7th, 2011, *Journal de Montréal*) thus transcending the original meaning Duplessis intended the crucifix to have. Prime Minister Jean Charest presented a motion affirming "our attachment to our religious and historic heritage represented by the crucifix[.]" (quoted in *The Gazette (Montreal)*, May 26th, 2008, *Canada.com*) which was unanimously adopted in the assembly, to keep the crucifix because of its historical and patrimonial significance, despite Bouchard and Taylor's recommendation (Denis Forcier-Shefford, December 28th, 2012, *Le Devoir*; *Radio-Canada*, May 22nd, 2008).

Arguments of Supporters of the Crucifix

The main argument of those who feel the crucifix belongs in the National Assembly is that the crucifix is part of the history, patrimony and identity of Quebec. Stating their position at various times between 2008 and 2012, Jean Charest, Pauline Marois, and CAQ leader François Legault all agree that the crucifix is a symbol of Quebec's history and is part of Quebec's traditions (Martine Jacot, May 20th, 2010, *Le Monde*; Marianne White, August 14th, 2012, *TVA Nouvelles*; Serge Charbonneau, February 22nd, 2010, *Vigile*; Ingrid Peritz, February 16th 2011, *The Globe and Mail*). Charest insisted that the crucifix must be understood within a historical perspective, since "[l]'Église a joué un rôle important dans l'histoire du Québec et le crucifix est le symbole de cette histoire"²⁹ (quoted in *Radio-Canada*, May 22nd, 2008). For Marois, it is necessary to recognize the historical contributions of religious communities in developing Québécois culture and in social services such as health and education (Alexandre Robillard, August 14th, 2012, *Huffington Post*). For columnist Barbara Kay (February 16th, 2011, *National Post*), not only is the maintenance of the crucifix harmless, but the historical and symbolic significance of Catholicism and the crucifix has created in ordinary Quebecers an emotional attachment "to the religion of their fathers" and to the crucifix, which is part of Quebec's historical heritage, "like the huge cross on Mount Royal in Montreal." She also maintains that keeping the crucifix must not be interpreted as a privilege for Catholicism, since the religion does not get special treatment in Quebec. According to Kay, keeping the crucifix "is simply a way of letting everyone know that the religion in which Quebecers no longer believe is the official religion not be believed in."

Some of those who support the presence of the crucifix in the National Assembly do so as a response to the reasonable accommodations debate. Commentators observed that while Bouchard and Taylor recommended removing the crucifix in the National Assembly, they also supported the tolerance of the veil, turban, kirpan and other religious symbols in public institutions. Journalist Joseph Facal (March 7th, 2011, *Journal de Montréal*) asks "Pourquoi nous effacer quand les autres s'affirment? Pourquoi la laïcité pour nous et pas pour tous?"³⁰ Facal, and provincial MP Louise Beaudoin (in Tommy Chouinard, February 15th, 2011, *La Presse*) maintain that rules valid equally for minorities and the Catholic majority must be established, and that, until then, the crucifix would stay in the National Assembly.

²⁸ "a rallying point, the symbol of the majority's attachment to its own identity forged in its past."

²⁹ "The Church has played an important role in Quebec's history and the crucifix is a symbol of this history."

³⁰ "Why erase ourselves when others are asserting themselves? Why *laïcité* for us and not for them?"

Lastly, two commentators, Hélios d’Alexandrie (August 25th, 2012, *Poste de Veille*) and Rolland Poulin (2010, p. 10) interestingly argued that the crucifix should be kept in the National Assembly because Catholicism is actually compatible with *laïcité* and with modernity. According to the authors, Jesus maintained a clear separation between religion and political matters, for example in Mark 12:17 “Give back to Caesar what is Caesar’s and to God what is God’s[.]” and therefore delimited a person’s duties as a citizen and his religious duties. D’Alexandrie goes so far as to claim that Jesus created what would become known as *laïcité*, and that modernity actually originated in Jesus’ teachings. For him, “[l]e crucifix à l’Assemblée Nationale nous rappelle simplement la place centrale qu’occupe Jésus-Christ dans notre civilisation.”³¹ Therefore, for d’Alexandrie and Poulin, the meaning of the crucifix is explicitly religious, but it nevertheless can remain in the National Assembly without threatening *laïcité*.

Arguments of Opponents of the Crucifix

While supporters of the crucifix paint it as patrimonial, as a symbol of Quebec’s religious past, some opponents argue it is not so, pointing to the origins of the crucifix to reveal its true meaning. Françoise David, spokesperson of Québec Solidaire, explained that Maurice Duplessis had placed the crucifix in the National Assembly to solidify the alliance of Church and State, and decried that “[s]i c’est un objet patrimonial, on peut le mettre ailleurs”³² (quoted in Tommy Chouinard, February 15th, 2011, *La Presse*), objections echoed by journalist Jacques Rouillard (January 27th, 2007, *Le Devoir*), and scholar Micheline Milot (2013, p. 86), who expressed the irony of turning Duplessis’ crucifix into a symbol of Quebec’s heritage. Serge Charbonneau (February 22nd, 2010, *Vigile*) denounces the sentimental and patrimonial arguments of supporters of the crucifix. For Charbonneau, “[l]e crucifix à l’Assemblée nationale ne date que de 1936 et était une façon pour Duplessis d’indiquer clairement à la population que l’Église catholique avait sa place dans l’État québécois”³³ and “[i]l y a peu de ‘patrimonial’ dans ce geste [...] [qui] relève plus du politico-religieux que du ‘patrimonial’.”³⁴ Moreover, Charbonneau points out that the crucifix remains the most important symbol of Christianity, and that it can therefore not be purged of its religious meaning, in favour of a patrimonial one. Charbonneau also denounced that the government only seems to care about preserving patrimony when it can bring electoral advantages. For example, the façade of St-Vincent-de-Paul church in Quebec city, a building Charbonneau deems much more patrimonial than the crucifix in the National Assembly, was destroyed around the time he wrote his article, to make room for a large hotel, without the government intervening to preserve patrimony.

Opponents’ most important argument against the crucifix is that its presence in the National Assembly compromises the neutrality and secular nature of the State. For pro-

³¹ “The crucifix in the National Assembly simply reminds us of the central role Jesus-Christ occupies in our civilisation.”

³² “If it’s a patrimonial object, it can be placed somewhere else.”

³³ “The crucifix in the National Assembly only dates from 1936 and was a way for Duplessis to clearly demonstrate to the population that the Catholic Church had its place in the Quebec state.”

³⁴ “There is little that can be considered ‘patrimonial’ in this gesture [...] [which] is more politico-religious than ‘patrimonial’ in nature.”

laïcité scholar Louise Mailloux (2011, p. 46), the crucifix must be removed, and all religious symbols must be forbidden in public institutions “[p]our être cohérent avec les principes laïques qui supposent la séparation du politique et du religieux et la neutralité de l’État.”³⁵ For journalist Rima Elkouri (May 30th, 2013, *La Presse*), what is most important is to protect the neutrality of the State, and that includes neutrality towards the majority’s religion as well. Serge Charbonneau (February 22nd, 2010, *Vigile*) also believes that the State is *laïque* and that public government spaces should remain neutral towards every religion. During the 2012 electoral season, Muslim PQ candidate Djemila Benhabib revealed her belief that the crucifix should be removed from the National Assembly to protect the neutrality of the state, therefore going against her party’s line (Marianne White, August 14th, 2012; Alexandre Robillard, August 14th, 2012, *Huffington Post*).

Outcome: Hanging in the National Assembly

To this day, the crucifix continues to hang in the National Assembly, while the debate over the place of religious symbols in the public sphere and over the definition and contents of *laïcité* still rages. The crucifix seems to be there to stay.

Prayers before City Councils in Saguenay from 2008 to 2013

Background

The 2013 Quebec Court of Appeal decision (*Ville de Saguenay, Jean Tremblay v. Mouvement laïque Québécois, Alain Simoneau*, 2013) details the history of the case. Since his election in Saguenay, mayor Jean Tremblay has recited a prayer before council meetings. The prayer lasts about 20 seconds, and Tremblay precedes and concludes it with a Sign of the Cross. Saguenay citizen Alain Simoneau, a non-believer, was shocked to hear the recitation of such a prayer before council, when he attended a few meetings in 2006. Simoneau felt that religious signs and prayer did not belong in an institution dedicated to municipal democracy. He found a supporter in the Mouvement laïque du Québec (MLQ), and decided to complain to the Human Rights Commission about Jean Tremblay’s practices. In 2008, the Human Rights Commission ruled that Saguenay council members should not recite a prayer before their meetings (Patrick Lagacé, May 15th, 2008, *La Presse*).

Following the CDPDJ decision, Tremblay and his council decided to continue their prayer. The traditional practice of reciting a prayer in Saguenay before council meetings was even solidified in municipal legislation, along with a new iteration of the prayer, which goes:

« Dieu tout puissant, nous Te remercions des nombreuses grâces que Tu as accordées à Saguenay et à ses citoyens, dont la liberté, les possibilités d’épanouissement et la paix. Guide-nous dans nos délibérations à titre de membre du conseil municipal et aide-nous à bien prendre conscience de nos devoirs et responsabilités. Accorde-nous la sagesse, les connaissances et la compréhension qui nous permettront de préserver les avantages dont jouit notre ville afin que tous

³⁵ “To be coherent with *laïques* principles which assume the separation of the political and the religious, and the neutrality of the State.”

puissent en profiter et que nous puissions prendre de sages décisions. Amen. »³⁶
(quoted in *Tremblay v Simoneau*, QCA, 2013)

Therefore, the battle continued and made its way to the Human Rights Tribunal. Simoneau, with the support of the MLQ, also decided to sue Tremblay and the City of Saguenay for \$100 000 in damages for the violation of his right to freedom of religion and conscience. Ricardo Codina (August 6th, 2008, *La Vie Rurale*), a Saguenay citizen, denounced Simoneau and the MLQ's request for compensation as an ethically questionable money-grabbing effort, which proved that their case was really motivated by profit.

In 2011, the Human Rights Tribunal also forbade the prayer, which they felt still contained remnants of Catholicism, and that therefore the municipal council favoured one religion over others and resulted in the imposition of particular values on the population. The tribunal demanded that religious symbols, such as crucifixes, be removed from municipal institutions (*Tremblay v Simoneau*, QCA, 2013; Graeme Hamilton, May 27th, 2013, *National Post*).

Tremblay decided to defy the decision again, and continued reciting the prayer. In addition, the mayor brought the case to the Quebec Court of Appeal, thus perpetuating the tug of war with the MLQ (Louise Mailloux, 2011, p. 43; *Radio-Canada*, March 8th, 2011; Ingrid Peritz, February 16th 2011, *The Globe and Mail*). The mayor's Catholic beliefs informed his decision to ignore the Human Rights Tribunal decision. Tremblay made his religious fervour explicit throughout his fight, even claiming that "[c]e combat-là, je le fais parce que j'adore le Christ. Je veux aller au ciel et c'est le plus beau combat de toute ma vie"³⁷ (quoted in Cédric Lizotte, May 29th, 2013, *MSN Actualités*) and that "[w]hen I get to the other side, I'm going to be able to be a little proud. I'm going to be able to tell Him: 'I fought for you.'" (quoted in Graeme Hamilton, May 27th, 2013, *National Post*). To finance his fight and avoid spending taxpayers' money, Tremblay has solicited donations from the faithful around the province. By March 2011, when the case reached the Quebec Court of Appeal, Tremblay had gathered around 150 000\$ (*Radio-Canada* and *La Presse Canadienne*, March 25th, 2011; *Radio-Canada*, March 8th, 2011; Ingrid Peritz, February 16th 2011, *The Globe and Mail*). While the case seemed straightforward to some observers, like Daniel Baril (March 2nd, 2011, *Le Devoir*), anthropologist and former MLQ president, who claimed that Tremblay's case was doomed to fail, the case of the Saguenay municipal council prayer was not over yet.

Arguments of Supporters of the Prayer

Jean Tremblay is obviously the most vocal supporter of the prayer. He justified his position by claiming that he is trying to protect Québécois and Christian values, since he felt that

³⁶ "God almighty, we thank You for the numerous graces that You have granted Saguenay and its citizens, including freedom, opportunities for personal growth and peace. Guide us in our deliberations as members of the municipal council and help us understand our duties and responsibilities. Grant us wisdom, the knowledge and the comprehension which allow us to preserve the advantages our city enjoys so that all may benefit from them and so that we can take wise decisions. Amen."

³⁷ "This fight, I pursue it because I love Christ. I want to go to heaven and it's the most beautiful fight of my whole life."

“comme Québécois, nous sommes particulièrement ‘mous’ par rapport à nos convictions, à ce qui fait notre identité, à ce qui nous unit... Notre peuple et nos valeurs de Canadiens français sont en train de s’effriter...”³⁸ (quoted in Marco Veilleux, May 2011, *Relations*). Much like supporters of the crucifix in the National Assembly, Tremblay decried that it is always Christians that have to bend to other religions, claiming that “[w]e’re ready to respect everyone, but we also want to be respected. It’s gone too far” (quoted in Ingrid Peritz, February 16th 2011, *The Globe and Mail*). Moreover, Tremblay also insisted that forbidding the prayer could threaten other Quebec traditions, like the *fleurdelysé* (also adopted by Duplessis, and featuring a large cross), monuments, holidays or the naming of cities (since many are named after Catholic figures) (*Radio-Canada* and *La Presse Canadienne*. March 25th, 2011).

Cédric Lizotte (May 29th, 2013, *MSN Actualités*) points out that, like Pauline Marois and the crucifix, Tremblay also played the patrimony card and downplayed religious meaning to protect his prayer. Solange Lefebvre and Gilles Bibeau, intellectual experts in Tremblay’s case, argued that “la prière telle que recitée à Saguenay est à la fois une prière oecuménique et une recitation vidée de son sens religieux”³⁹ (described by Daniel Baril, May 29th, 2013, *La Presse*).

Lastly, Saguenay citizen Ricardo Codina (August 6th, 2008, *La Vie Rurale*) supported his mayor’s position on two grounds. For him, the fact that Tremblay and his government were democratically elected legitimizes their practice of reciting a prayer. The citizen feels that Simoneau and the MLQ’s attempt to dictate their own standards to the Saguenay municipal council is an anti-democratic effort. Codina explains that

“[t]ous les citoyens savaient que Jean Tremblay, catholique convaincu, allait garder la prière lors des ouvertures de séances du conseil municipal à la mairie. Il a été élu quand même. Ça n’a pas l’air de déranger la majorité des électeurs.”⁴⁰

Additionally, Codina and Réjean Laforest, president of the Jonquière borough of Saguenay, feel that the recitation of the prayer does not affect the rights and freedoms of Saguenay citizens (*Radio-Canada*, May 27th, 2013).

Arguments of Opponents of the Prayer

For Marco Veilleux (May 2011, *Relations*), Patrick Lagacé (May 15th, 2008, *La Presse*) and Luc Alarie, the MLQ’s lawyer representing the organization in the case (in Ingrid Peritz, February 16th 2011, *The Globe and Mail*), prayer does not belong in a town hall, since it threatens respect for pluralism, the equality of all citizens, the separation of Church and State, and the neutrality of the state. Their objections matched the reasoning of the 2011 Human Rights judgment, which concluded that the recitation of the prayer should be prohibited (Daniel Baril, March 2nd, 2011, *Le Devoir*).

³⁸ “as Québécois, we are particularly ‘soft’ [spineless] when it comes to our convictions, to what makes our identity, to what unites us... Our people and our French-Canadian values are withering away...”

³⁹ “the prayer as recited in Saguenay is both ecumenical and a recitation voided of its religious connotation.”

⁴⁰ “All citizens knew that Jean Tremblay, a convinced Catholic, would keep the prayer while opening town hall meetings of the municipal council. He was elected anyway. It doesn’t seem to bother the majority of electors.”

Daniel Baril (May 29th, 2013, *La Presse*), anthropologist and expert for the MLQ in the case, argued that the recitation of the prayer in municipal meetings is like “un rituel identitaire qui a pour effet négatif de produire un sentiment d’exclusion chez les personnes qui ne partagent pas la vision du monde et des rapports sociaux exposée dans une prière”⁴¹ and which “crée une discrimination entre les citoyens sur la base de leur conviction en matière religieuse, ce qu’interdit la Charte des droits et libertés.”⁴² Raymond Gravel (February 17th, 2011, *La Presse*), a Joliette priest and spiritual councillor for Laval police officers and Montréal fire fighters, agrees with Baril’s position and feels that Tremblay’s unhealthy obsession with maintaining the prayer could lead to “une polarisation malheureuse entre les croyants et les athées d’une part, et à une intolérance en matière de pluralisme religieux d’autre part.”⁴³

Gravel (February 17th, 2011, *La Presse*) and Marco Veilleux (May 2011, *Relations*) both proposed to replace the prayer before municipal meetings with a minute of silence, which, for Gravel, would be “un moment fort d’intériorisation sur les grands enjeux de notre société[.]”⁴⁴

Outcome: The 2013 Quebec Court of Appeal Decision

In May 2013, the Quebec Court of Appeal ruled that the recitation of a prayer did not jeopardize the neutrality of the city of Saguenay since it is not necessary, to attain neutrality, to cleanse society of religious realities, including those which pertain to cultural history, and that there is no conflict between Simoneau and the practices of the city (Graeme Hamilton, May 27th, 2013, *National Post*; Radio-Canada, May 27th, 2013, *Huffington Post*). The ruling (*Tremblay v Simoneau*, QCA, 2013), written by judge Guy Gagnon, concluded that, though the municipal regulation solidifying the prayer is questionable and the prayer does little to increase the quality of deliberations, “la neutralité de la Ville ne s’est pas trouvée pour autant compromise par ces références à son patrimoine culturel et historique.”⁴⁵ The judge believed that Simoneau never proved that the prayer and religious objects in municipal institutions threatened his dignity, especially considering that he is confronted with theist references in the public space almost daily, or represented discriminatory practices.

However, Judge Gagnon (*Tremblay v Simoneau*, QCA, 2013) made sure to denounce Tremblay’s cavalier attitude and the personal nature of his fight, which has led to the vain polarisation of opinions on the issue. Moreover, he felt that Tremblay’s outward expressions of his Catholic fervour is inappropriate because they “témoignent d’une

⁴¹ “an identity-affirming ritual which has as a negative effect to create a feeling of exclusion in people who do not share the worldview and perception of social relations revealed in a prayer”

⁴² “creates discrimination between citizens on the basis of their religious conviction, which the Charter of Rights and Freedoms forbids.”

⁴³ “an unfortunate polarisation between believers and atheists on one hand, and to an intolerance of religious pluralism on the other.”

⁴⁴ “a poignant moment of internalisation of what is at stake in our society”

⁴⁵ “the City’s neutrality is nevertheless not compromised by these references to its cultural and historical patrimony.”

absence de réserve élémentaire de la part de celui qui occupe une fonction électorale et participe sur une base quotidienne à la gouvernance de la Ville.”⁴⁶

Three main considerations informed Judge Gagnon’s (*Tremblay v Simoneau*, QCA, 2013) position towards the prayer in the municipal council: the desirability and feasibility of integral secularism, Quebec cultural history and evolution, and the non-religious quality of the prayer. Gagnon points out that signs of religious particularism are visible in the public sphere; for example, the preamble of the Canadian Charter recognizes the supremacy of God. He is convinced that purging the public sphere of religious presence is impossible and undesirable since “le principe de la neutralité religieuse de l’État vise à promouvoir à la tolérance et l’ouverture à l’égard de la divergence et non à exclure de la réalité d’une société toute référence à son histoire, fût-elle religieuse.”⁴⁷ Indeed, the Catholic religion is part of Quebec’s history, and many of its traditional manifestations are compatible with modernity and have become laicized. These manifestations cannot “être supprimées au nom d’une conception draconienne de la neutralité de l’État[.]”⁴⁸ since they “ne sont que des témoins passifs de l’histoire[.]”⁴⁹ Because of Quebec’s cultural evolution, religious symbols and acts have lost their religious connotation. In his interpretation of Jean Tremblay’s prayer, Gagnon comes to this conclusion that:

“la prière prononcée convient à un grand nombre de religions et est récitée dans un contexte qui ne se qualifie pas comme un rituel et encore moins un rituel identitaire, [...] tel que le prétend M. Baril[.] [...] [L]es valeurs exprimées par la prière litigieuse sont universelles et [...] elles ne s’identifient à aucune religion en particulier.”⁵⁰

The opinion of Jean Tremblay’s experts Solange Lefebvre and Gilles Bibeau influenced his interpretation of the prayer, while Daniel Baril’s opinion was rejected because he was deemed too biased, as a former president of the MLQ, to provide an objective opinion. However, the judge questioned Tremblay’s behaviour upon the recitation of the prayer, including making the Sign of the Cross and uttering the words “Father, Son and Holy Ghost,” which he felt crossed a line and could lead to a separate court challenge (Graeme Hamilton, May 27th, 2013, *National Post*).

Daniel Baril (May 29th, 2013, *La Presse*), the MLQ’s expert whose testimony was rejected, denounced Gagnon’s apparent double standard when it came to the consideration of experts, since he viewed the testimony of a *laïque* militant as less objective than that of a fervent catholic (Lefebvre). Baril also rejected the judge’s conclusion that the prayer does not threaten State neutrality. Baril felt that it challenged the separation of Church and State since it requested the intervention of “Dieu tout puissant[.]”⁵¹ He also denounced the fact

⁴⁶ “showcases the lack of elementary reserve becoming to one occupying an elected position and participating on a daily basis to the governance of the City.”

⁴⁷ “the principle of religious neutrality of the State seeks to promote tolerance and openness towards diversity and not to exclude from social reality all references to its history, be it religious.”

⁴⁸ “be suppressed in the name of a draconian conception of the neutrality of the State.”

⁴⁹ “are little more than passive witnesses of history.”

⁵⁰ “the pronounced prayer is acceptable for a great number of religions and is recited in a context that does not qualify as a ritual, or even less as an identity ritual, [...] as Mr. Baril claims[.] [...] values expressed by the litigious prayer are universal and [...] they do not identify to any particular religion.”

⁵¹ “God Almighty”

that the judge only took into consideration the freedom of conscience of non-Catholics, and not that of non-religious citizens. Journalists Cédric Lizotte (May 29th, 2013, *MSN Actualités*) and Rima Elkouri (May 30th, 2013, *La Presse*) also questioned the judge's conclusion that the prayer reflected universal values, since its explicit appeal to God may not resonate with atheist or agnostic Quebecers.

The PQ's reaction to the judgement was a quiet one, with minister Bernard Drainville making no comment, simply pointing out that the decision could be appealed in the Supreme Court (Angelica Montgomery, May 28th, 2013, *CJAD*), an option the MLQ's lawyers are exploring (Marilyse Hamelin, May 29th, 2013, *Journal de Montréal*). Drainville only declared that the issue of prayer before city council would be addressed when he reveals his plans for a Charter of Quebec values, previously named the Charter of *Laïcité* (Angelica Montgomery, May 28th, 2013, *CJAD*). For Daniel Baril (May 29th, 2013, *La Presse*), as well as for Judge Gagnon (*Tremblay v Simoneau*, QCA, 2013), it is necessary for the PQ government once and for all to legislate what *laïcité* in Quebec is, so that more appropriate decisions may be rendered, and to deliver on their electoral promise of writing a *Charte de la Laïcité*, a project which will be addressed later in this report.

What is *Laïcité* in Quebec?

Examining cases dealing with religious expression in the public sphere can help one figure out the meaning of *laïcité* in Quebec, a complex issue which has yet to be solved. To understand Quebec *laïcité*, one must grapple with a number of issues, such as the incoherence of reasonable accommodation decisions, existing definitions, Quebec's religious history and identity and the current perception of *laïcité* as a social issue.

Grappling with Incoherencies and Definitions

The cases examined in this report reveal important incoherencies in Quebec's perception of *laïcité*. While the Liberal government created a bill of law to prohibit wearing the *niqab* and *burqa* in government institutions, which the PQ opposition rejected because it did not prohibit enough religious expression in the public sphere, all major political parties took issue with the presence of unlabelled *halal* meat on the market, and the PQ government supported the ban of turbans on Quebec's soccer fields, Liberals and Péquistes, and many other politicians, also steadfastly protect the presence of the crucifix in the National Assembly, and the Quebec Court of Appeals rules that reciting a prayer before city council meetings is acceptable, a decision which the PQ government has not explicitly rejected. These seemingly incoherent positions have not escaped a number of journalists. Patrick Lagacé (June 11th, 2013, *The Globe and Mail*), Rima Elkouri (May 30th, 2013, *La Presse*), a *The Globe and Mail* editorialist (May 28th, 2013, *The Globe and Mail*) all pointed out that Quebec society seems to decry threats to secularism from other religions, while protecting Catholicism from similar attacks, and that it is necessary for the province to create standards that will apply equally to all religions in the public sphere. These incoherencies raise serious questions about the definition and policies of *laïcité* in Quebec. Bouchard and

Taylor (2008), and other commentators provide their definitions of *laïcité* and differentiate open and closed *laïcité*.

Bouchard and Taylor's Definition

In their report, Bouchard and Taylor (2008) offered their definition of Quebec's version of secularism. Four principles define *laïcité* according to Bouchard and Taylor: moral equality of people, freedom of conscience, neutrality of the State towards religion (but not towards society's fundamental values), and the separation of Church and State (pp. 134-5).

For the commissioners (2008), a policy of "*laïcité ouverte*," as opposed to France's rigid model of *laïcité*, is already entrenched in Quebec society (p. 20). Bouchard and Taylor differentiate open and closed *laïcité* thusly in their report: Closed (or rigid) *laïcité*, represented by France's model, seeks the emancipation of individuals from religion and the complete secularisation of society, goals which the commissioners describe as problematic in Quebec society, as well as civil integration, which they view as more acceptable aspiration; on the other hand, open *laïcité*, which they feel is already established in Quebec, primordially protects freedom of religion and of conscience (pp. 137-8). They also address criticisms of *laïcité ouverte*. For some observers, religion belongs only in the private sphere and is a source of oppression, and religious practices can legitimately be prohibited (p. 145). The best example on this impression is the wearing of the Muslim veil, which many commentators feel reveals the inferior status of women in Islam. For Bouchard and Taylor, "[l]a question cruciale ici est de savoir qui a le droit de décider de la signification des actes expressifs d'une personne"⁵² (p. 145). They believe that the autonomy of believers is more important than the interpretation of observers and that therefore, religious practices should be tolerated.

Therefore, Bouchard and Taylor (2008) believe that *laïcité ouverte*, which already exists in Quebec society, best fills the four criteria of *laïcité*, grants the greatest protection of freedom of conscience and of religion, and ensures state neutrality towards religion and the separation of Church and State (p. 148). Some of the concrete actions Bouchard and Taylor recommended in the name of *laïcité ouverte*, includes the tolerance of religious symbols worn by individuals in public institutions, except for agents representing the power of the state, and the removal of the crucifix from the National Assembly.

While they claimed that *laïcité ouverte* already exists in Quebec society, Bouchard and Taylor (2008) also recognized that it is not well established in policy. They called for the government to draft a *Livre Blanc sur la Laïcité*, an official document which would clearly define the principles of *laïcité* in Quebec.

Criticisms of Bouchard and Taylor's Definition

⁵² "The crucial question here is to know who has the right to determine the signification of a person's expressive actions."

Many scholars found issue with Bouchard and Taylor's *laïcité ouverte* scheme, which the commissioners presented as already existing in Quebec. Louise Mailloux (2011) questions the effects of their policy, since the crucifix in the National Assembly would need to be removed, while the turban, veil or kipa should be tolerated. She feels that Bouchard and Taylor's position has led to explosive debates about Québécois identity. Guy Durand (2011) insists that Bouchard and Taylor's definition of *laïcité* is too convoluted, fails to take into account Quebec's history, traditions and identity, and agrees too much with Canadian multiculturalist positions (pp. 62-4). For Jean-François Dupré (2012), the commissioners' definitions of interculturalism and *laïcité ouverte* do not actually reflect what exists in Quebec, since Quebec's *laïcité* seems to lean towards a more civic, republican, France-style, policy (p. 241). David Koussens (2011) adds that the scheme of *laïcité* and accommodation developed in Canadian jurisprudence and in the Bouchard-Taylor report does not reflect the "narrative secularism" in Quebec, which seems to sway toward "*laïcité à la française*"⁵³ (p. 4). Moreover, Jocelyn Parent (2011) also agrees that *laïcité ouverte* does not constitute a social consensus, and has instead been presented as such in government reports like the *Rapport Proulx* of 1999, dealing with religion in the Quebec public school system, or the Bouchard-Taylor report, and that it is a mistake on the part of intellectuals to assume that *laïcité ouverte* is well entrenched in Quebec based on these works (pp. 126 and 139).

Other Attempted Definitions, and Confusion

While Bouchard and Taylor grapple with a definition of Quebec's *laïcité*, other writers also attempt to define various terms related to policies towards religion in the public sphere, in the Canadian or Quebec context.

Journalist Jackson Doughart (June 13th, 2003, *Prince Arthur Herald*) attempted to distinguish the meanings of secularism and *laïcité*, which he points out are not simply English and French words meaning the same thing. He defines secularism as "the separation of religious institutions from government ones and to the guarantee of religion's free exercise," which is most reflective of Canada's policy towards religion, while *laïcité*, which originated in France, "incorporates the notion that it is the role of the state to progressively move society (including society's institutions) away from religious influence." With this distinction, Doughart sought to explain the divergence in Canadian and Québécois opinions towards the FSQ turban ban. Marieme Hélie-Lucas (2011) also distinguishes secularism, which she defines as equal tolerance of all religions by the state, and *laïcité*, which she defines as the total separation of Church and state and as the disengagement of the state towards all religions (p. 8).

A 2004 report redacted for the Quebec minister of immigration and relations with citizens by the Conseil des Relations Interculturelles (CDRI), titled *Laïcité et diversité religieuse: L'Approche Québécoise*, presented their definitions of various words related to the withdrawal of religion in the public sphere, with regards to Quebec's policy. *Sécularisation* refers to a social process by which religion gradually loses its influence in various social spheres; *laïcisation* refers to state efforts to maintain its neutrality towards

⁵³ "French-style *laïcité*"

religion and to prevent the influence of religion in government institutions; *laïcité* refers to the result of the *laïcisation* process and is distinct from *laïcisme*, which “vise à expurger la religion, dans toutes ses manifestations, de l’ensemble de la sphère publique[,]”⁵⁴ which they feel is not what Quebec’s *laïcité* seeks to achieve (pp. 44-6). Micheline Milot (2002) suggests that *laïcité* is most often defined as a French anticlerical and antireligious ideology, but it is also described as the process of “l’aménagement d’un espace politique qu’on veut affranchi du pouvoir religieux”⁵⁵ (p. 23). For Milot, *laïcisation* results from political action which leads to a decrease in the social and institutional significance of religion in relation to the State, while allowing it full freedom in the rest of society (p. 26). *Sécularisation*, on the other hand, refers to the process of cultural disqualification of religious beliefs and practices and the shrinkage of religion’s sphere of influence in the society, leading to the social and cultural marginalisation of religion (p. 28).

Other sources also attempt to distinguish open and closed *laïcité*, as Bouchard and Taylor (2008) do in their report. Guy Durand (2011) describes integral (or closed) *laïcité* as a complete separation of Church and State which views the neutrality of the State as the ignorance of religion, while open *laïcité* is marked by the State’s openness towards religion (pp. 66-7). Jean-François Dupré (2012) has similar definitions of open and closed secularism (which he seems to use as a synonym of *laïcité*), and suggests that open secularism is a prominent aspect of both Canadian multiculturalism and Quebec interculturalism (p. 233). For Louise Mailloux (2011), open *laïcité* threatens the collective, the nation and women’s rights. Serge Charbonneau (February 22nd, 2010, *Vigile*) maintains that there are no such things as open or closed *laïcité*, only *laïcité*, and that a state cannot be *laïque* if it accommodates religious rules in the public sphere.

With these various definitions and perceptions, it is clear that visions of *laïcité*/secularism and other terms related to the decreasing presence of religion in the public sphere vary from one author to another, further demonstrating the need for more discussion on policies towards religion in the public sphere. Micheline Milot (2013) explains the disparity in Canadian and Quebec policies of secularism/*laïcité* and divergence in definitions by suggesting that secularism “takes shape in the context of a specific political and legal history” (p. 39).

Quebec Identity and History

To understand Quebec *laïcité*, it is necessary to understand Quebec’s identity and religious history. Three main notions, which Quebec society seeks to protect with their positions on social issues, define Quebec’s present identity: the French language, gender equality and *laïcité* (Guy Durand, 2011, p. 11). Therefore, according to Micheline Milot (2013), many opponents of religious accommodations base their position on the perceived threat of religious practices on the equality of the men and women (p. 41), and to Quebec’s *laïque* worldview. Quebec’s policies towards immigrations and religious difference must also be understood within the perspective of its national project for recognition as a distinct

⁵⁴ “seeks to purge religion, in all its manifestations, from the entirety of the public sphere.”

⁵⁵ “the establishment of a political space that is deemed emancipated from religion”

society within multicultural Canada (Jean-François Dupré, 2012, p. 243). Quebec's status as the only French-speaking, Catholic province in Canada also informs Quebec's accommodation debates (Micheline Milot, 2013, p. 41).

Moreover, the impact of the Christian tradition on Quebec society, including in institutions, values, arts and architecture (Guy Durand, 2011, pp. 17-9), is evident even to this day. For Guy Durand, rejecting Quebec's Christian heritage is to reject Quebec's history, and interpretations of *laïcité*, social integration and reasonable accommodations must protect and promote Quebec's culture and identity, including its Christian legacy (pp. 21 and 139).

The CDRI (2004) report offered an overview of Quebec's religious history to support their interpretations of Quebec's *laïcité*. Starting with French colonisation, the Catholic Church has played a significant role in the function of social services such as education and healthcare. After British conquest and the American Revolution, British rulers adopted conciliatory practices towards their new Catholic subjects, so that they would not rebel as well, leading to French-Canadians' enjoyment of rights that even Irish Catholics did not have. The 1867 British North American Act was silent on the issue of State/Church relations. Until the mid-1930s, relations between the Quebec government and the Church were not particularly amicable and sometimes downright tensed. When Maurice Duplessis came to power in 1944, he solidified an alliance between the Church and his government, leading to the extension of ecclesiastical influence in government institutions, to an increase in social repression and conservatism, and to many abuses of a power at the hands of the Church, lasting until Duplessis' death in 1959. As pointed out by Jocelyn Parent (2011), even during Duplessis' mandates, groups of intellectuals and artists challenged Duplessis and the Church's agenda. The *Refus Global* opposed traditional values suffocating Quebec society, namely "la foi catholique, l'attachement aux valeurs ancestrales (principalement liées à l'agriculture), et le misérabilisme condamnant un 'petit peuple à un petit pain'"⁵⁶ (p. 69). The 1960s saw a more generalized backlash against the policies and worldviews of Duplessis and the Church, under Prime Minister Jean Lesage. The influence of the Church withered away, as Quebec's welfare state rose and Québécois identity became defined by the French language instead of Catholicism. Micheline Milot (2002) points out that the *laïcisation* of institutions was a social necessity, since the Baby Boom led to the Church's struggle to devote human and material resources to various establishments, including social services, under their control (p. 114). The 1970s and 1980s saw the continuing challenge of the Church's power in health and education sectors, the emergence of organized groups of *laïcisation* supporters, such as the *Mouvement Laïque du Québec* in 1981, increasing social concern with the protection of individual rights, leading to the redaction of the *Charte des droits et libertés de la personne du Québec* in 1975 and the Canadian Charter of Rights and Freedoms in 1982, and the increasing presence of ethno-cultural and religious diversity (CDRI, 2004, pp. 22-6).

⁵⁶ "Catholic faith, attachment to ancestral values (mainly related to agriculture), and the miserabilism condemning 'a small people to a small bread.'"

Quebec's conflicted religious history, marked by the positive and negative impact of the Catholic Church on Quebec society, clearly affects present perceptions of the place of religion in the public sphere. Some observers view religion (all religions) as threatening, others view Catholicism as simply patrimonial, as a vestige of Quebec's past, while some view religion as a positive influence on people's lives and on society and as an issue of human rights.

***Laïcité* as a Social Issue**

In recent years, especially within the context of the reasonable accommodation debates and in subsequent years, secularism/*laïcité* and the place of religion in the public sphere have been subject to much debate. While some commentators view individual rights, such as the freedom of conscience or of religion, as primordial when considering issues of religious accommodation, others fear that the presence of religion in the public sphere may threaten society, with, for example, Quebec's protection of secularism and gender equality threatened by what are perceived as retrograde religious values (Micheline Milot, 2010, pp. 84-5 and 88). Milot questions how "a concept of secularism defined historically as a guarantee of freedom of conscience and religion [can] be reconciled with an interpretation of secularism as a means of prohibiting religious expression" (p. 88), while Meena Sharify-Funk (2010) believes that secularism should contribute to the inclusion of immigrants and minorities, instead of leading to their exclusion from society (37). On the other hand, religious accommodations lead to anxiety among many Québécois that the privileges gained over the years through the secularisation of government institutions are withering away (Michel Virard, May 17th, 2006, *American Humanist Association*). Ariane Brunet (2011) suggests that, while there is nothing wrong with cultural relativism, accommodations are problematic because adjustments deny the universality of rights, lead to the sidelining of existing laws, and mask the rise of fundamentalism within Canadian and Quebec society (p. 224). Louise Mailloux (2011) describes Quebec's *laïcité* as not only "inachevée,"⁵⁷ but also "grandement menacée,"⁵⁸ by expressions of religious diversity (p. 33).

Indeed, for Mailloux (2011), as well as Rolland Poulin (2011), Quebec's version of *laïcité*, influenced by Quebec's identity and cultural evolution, is incomplete because it has yet to be enshrined in legislation. Bouchard and Taylor (2008), and the CDRI report (2004) have prompted the government in their recommendations to provide an official definition of *laïcité* for institutions and citizens to have a better idea of how to deal with religious diversity and how to arbitrate relations between the Church and State.

What do the Cases Examined Reveal about Quebec's *laïcité*?

It is clear that the effects and value of religious accommodations attract polarizing opinions, and that issues of religious accommodation are still prevalent and viewed as social issues, as made obvious in the case studies presented in this report.

⁵⁷ "incomplete"

⁵⁸ "greatly threatened"

In the cases studied in this report, supporters of accommodation of religious practices based their stand on the protection of individual rights of believers and freedom of religion, while opponents of religious accommodations point to the lay nature of institutions, the protection of gender equality and consumer rights, the particularity of Quebec values as opposed to the rest of Canada, and issues of safety and functionality to base their positions. For some opponents of reasonable accommodations, the very religious nature of practices discredits them from legitimate presence in the public sphere because of the need to protect *laïcité*. Micheline Milot (2010) explains that many opponents of religious accommodation are mostly outraged with using religion to justify an accommodation, and often discredit religious norms in their denunciation of accommodations, thus “disqualifying the believer from the requirements of civic participation[,]” and subjecting them to more suspicions of bias in the case of public agents, because of their religious beliefs that some deem to be inappropriate in the public space (p. 87). She maintains that

“[w]hat is discredited is the very nature of religious belief or practice. It is not ‘believable,’ in the sense of credible, that a religious belief or practice could be sincere enough that it may be reasonable to try to accommodate it.” (p. 87)

Milot feels that opponents of accommodation believe that “[w]e would all be duped if we lent them credence through accommodation, since requests based on religious affiliation proceed from an attitude of hypocrisy” (p. 87).

On the other hand, supporters of Catholic presence in government institutions (who also tend to be opponents of religious accommodation) point to the patrimonial nature of objects and practices and to the need for Québécois to affirm their traditions in the face of increasing diversity to justify their opinion. Louise Mailloux (2011), a proponent supporter of rigid *laïcité*, believes that Quebec’s policy of *laïcité* must “garantir un avenir qui soit en continuité avec notre histoire et notre identité avec une croix sur le Mont-Royal, une croix sur notre drapeau, une croix au Carrefour des villages et, pour illuminé tout ça, des sapins de Noël, d’Hérouxville jusqu’au Plateau”⁵⁹ (p. 36). Therefore, instances of Catholic presence in the public sphere, such as the crucifix in the National Assembly and the prayer in Saguenay, are tolerated because they are semantically voided of the religious content and viewed as patrimonial evidence of history. Opponents of such Catholic presence (including adherents to *laïcité ouverte*, who also support religious accommodations, and proponents of a more rigid *laïcité* who also oppose religious accommodations) claim that Catholic manifestations threaten the neutrality of the state and the separation of Church and State, and that the patrimonial value of Catholic objects and practices does not excuse their presence in government institutions.

Therefore, as is particularly evident in the Muslim veil issue, the debates taking place when instances of accommodation emerge, such as those addressed in this report, raise the issue of interpretive power, not only about the content of the practice, but also about the value of religious belief. For Bouchard and Taylor (2008), the believer’s

⁵⁹ “guarantee a future that will protect the continuity of our history and our identity, with a cross on Mont-Royal, a cross on our flag, a cross at the crossroads of villages and, to light this all up, Christmas trees, from Hérouxville to the Plateau.”

interpretive power is supreme when it comes to the evaluation of religious practices. Opponents of accommodation sometimes usurp this interpretive power when discrediting religious beliefs. Jeremy Webber (1996) points out that “our understanding of other cultures’ practices are refracted and distorted through our own cultural or ideological preoccupations[,]” (p. 271) and that “[o]ur very commitment to justice, then, can require the active toleration of competing visions, not because we are caught within some irreducible relativism, but on the contrary because we recognize the value of competing visions to our moral reflection” (p. 275). Therefore, unqualified interpretations of practices and of the value of religious belief, coupled with their perceived threat to gender equality and secularism, can lead to their rejection in the public sphere, while arbitrary interpretations of Catholic practices as non-religious lead to their tolerance in a seemingly *laïque* society.

While the current PQ government has rejected Bill 94 because it did not prohibit enough religious expression in public institutions, and supported the FSQ’s turban ban, they have also protected the presence of the Crucifix in the National Assembly and tolerated the practice of reciting a prayer before city council meetings in Saguenay, which the Quebec Court of Appeal endorsed. While those who oppose the crucifix and the prayer point to their clear religious nature and their threat to *laïcité*, the PQ and supporters of these practices have denied their religious nature, instead interpreting them as patrimonial, traditional and reflective of Quebec’s history.

In both the rejection of non-Catholic practices, and in the protection of Catholic vestiges, interpretations of the majority or of the government over the value of religion, the sincerity of believers, the meanings of practices or the very religious nature of relics and traditions seems to inform the tolerance or rejection of religious practices. The lack of guidelines on religious accommodation, leading to case-by-case resolution of accommodation requests and other issues related to religion in the public sphere leads to seemingly arbitrary decisions based on subjective interpretations of religion and religious practices, interpretations which the majority or the government may or may not have the authority to make. As Bouchard and Taylor and many other commentators have insisted, it seems necessary for the government to redact a document on Quebec’s policy of *laïcité* in an effort to prevent seemingly arbitrary and incoherent decisions regarding religion in the public sphere.

La Charte de la Laïcité du Québec

It is clear, from the cases examined in this report, in their polarizing effects, their sometimes incoherent conclusions and the calls from many commentators for government precisions, that it is necessary for the government to clearly define the meaning of *laïcité* in Quebec and its practical implications in legislation. During the 2012 electoral campaign, the PQ promised to redact a charter of *laïcité* if elected, a project that may solve issues associated with a lack of official enshrinement of *laïcité*. Before then, in 2010, a group of intellectuals offered their own interpretations of Quebec *laïcité* because of continuous government inaction on the issue.

Pour un Québec laïque et pluraliste

Guy Rocher, sociologist and one of the prominent authors of the manifest *Pour un Québec laïque et pluraliste*, explained that the redaction of the short piece which denounces “*laïcité ouverte*” was prompted by the state of *laïcité* in Quebec, marked by confusion in the face of increasingly numerous and diverse requests for accommodation and the need for clear instructions on the neutrality of the state and *laïcité* (in Marco Bélair-Cirino, March 16th, 2010, *Le Devoir*). The manifesto also served as a reply to another piece dealing with similar issues, *Manifeste pour un Québec pluraliste*, which was written by notable intellectuals such as Daniel Weinstock and Micheline Milot, and was published in *Le Devoir* on February 3rd, 2010. The *Manifeste* denounced the idea that interculturalism, “*laïcité ouverte*,” and reasonable accommodation threatens Quebec society, thus agreeing in many ways with the schemes built by Bouchard and Taylor in their report (P. Bosset, D. Leydet, J. Maclure, M. Milot, and D. Weinstock, February 3rd, 2010, *Le Devoir*). According to Daniel Baril, with *Pour un Québec laïque et pluraliste*, he and his co-authors sought to present an idea distinct from that espoused in the *Manifeste pour un Québec pluraliste*, since they felt that the piece was inadequate (in Marco Bélair-Cirino, March 16th, 2010, *Le Devoir*).

Pour un Québec laïque et pluraliste was published in *Le Devoir* on March 16th, 2010, and included among its numerous authors Rocher, Baril, and former Prime Minister of Quebec Bernard Landry. The manifesto insists that it is necessary for the state and its institutions to remain completely neutral towards religious convictions. State neutrality would be best served through an official endorsement of neutrality and through “la neutralité de l’image donnée par ses représentants[,] [qui] doivent donc éviter d’afficher leur appartenance religieuse, philosophique ou politique”⁶⁰ (Collective of authors, March 16th 2010, *Le Devoir*). For the authors, “*laïcité ouverte*” actually negates the neutrality of the state by allowing for religious accommodation in government institutions. Moreover, they feel that Bouchard and Taylor’s suggestion that religious symbols worn by state agents should be tolerated except for those who most strongly represent the power of the state, such as judges or police officers, is contradictory, since it creates two sets of standards for agents of the state. Moreover, the collective of authors maintains that *laïcité* is primordial to pluralism, since it allows for the protection of the majority’s choices for their own society, without threatening the freedom of religion or conscience of anyone. Indeed, prohibiting manifestations of religious belief through wearing religious symbols for agents of the state does not suggest a complete negation of a religious agent’s faith. To justify their definition of *laïcité*, the authors appeal to Quebec’s history and to past manifestations of this policy of *laïcité*, a strategy which journalist Lysiane Gagnon (March 18th, 2010, *La Presse*) found inappropriate since what she considered a reconstruction of the past poorly defuses impressions that a strict policy of *laïcité* actually emerged following increases in Muslim immigration to Quebec.

According to Jocelyn Parent (2011), more ordinary Québécois added their signature to *Pour un Québec laïque et pluraliste* than they did to *Manifeste pour un Québec pluraliste*,

⁶⁰ “the neutrality of the image offered by representatives of the state[,] [who] must therefore avoid showcasing their religious, philosophical or political allegiances.”

which he felt was proof that *laïcité ouverte* does not correspond to the choices of Québécois or to the reality of Quebec *laïcité*, and that Québécois are distinct from Canadians when it comes to cultural diversity and multiculturalism (p. 151). Therefore, with *Pour un Québec laïque et pluraliste*, a group of intellectuals attempted to offer a workable definition of Quebec *laïcité* while the government hesitated to do so, thus prompting the PQ opposition, in the 2012 electoral context, to make their own promises.

PQ Plans in the 2012 Electoral Context

As part of their electoral platform in the 2012 election, the PQ and its leader Pauline Marois advocated for the adoption of a *Charte de la laïcité*. This charter would declare Quebec to be a *laïque* state, neutral towards religious beliefs. Effectively, the charter would prevent state employees from wearing religious symbols, but would also protect tokens of Quebec's patrimony, such as the crucifix in the National Assembly (Alexandre Robillard, August 14th, 2012, *Huffington Post*; Tommy Chouinard, February 15th, 2011, *La Presse*).

Perceived Liberal inaction towards issues of reasonable accommodations and religion in the public sphere prompted Marois' proposal. She felt that the Bouchard-Taylor Commission, the Liberal government's most notable effort in the reasonable accommodation issue, divided Quebec and solved nothing despite its staggering cost (Annie Mathieu, August 15th, 2012, *La Presse*). Moreover, Bill 94, which would ensure that those dispensing and receiving government services would do so with their faces uncovered, the Liberal government's other notable effort at regulating certain instances of religious presence in the public sphere, would not solve the issue of religious accommodation in government institutions since, according to the PQ, the bill did not go far enough in prohibiting religious symbols (Sophie-Hélène Leboeuf, August 14th, 2012, *Radio-Canada*).

In addition to targeting the Liberal government with their proposed charter, Pauline Marois also critiqued Canada and its "idéologie du multiculturalisme qui invite les gens à vivre dans des ghettos"⁶¹ (Rédaction, No date, *Pontransat*) and insisted that her government, were it to be elected, would debate and fight for every clause of the *Charte* with the federal government if necessary; she and her candidates were also willing to appeal to the notwithstanding clause of the Canadian Constitution to challenge legal arguments in the Canadian Charter of Rights and Freedoms (Sophie-Hélène Leboeuf, August 14th, 2012, *Radio-Canada*).

Guidelines and Potential Content of the *Charte*

Pauline Marois described her proposed *Charte* in limited detail during the 2012 election, and more information on its potential content has arisen since the PQ government's election. The *Charte* would rest on principles of neutrality of the State and equality of men and women. It would prevent the appeal to the right of freedom of religion to obtain reasonable accommodations that would threaten gender equality or the good function of governmental institutions, such as a demand to be served by a person of the same sex when

⁶¹ "ideology of multiculturalism which invites people to live in ghettoes."

receiving government services, and would prevent government employees from wearing religious symbols (Sophie-Hélène Leboeuf, August 14th, 2012, *Radio-Canada*; Annie Mathieu, August 15th, 2012, *La Presse*; La Presse Canadienne, May 22nd, 2013, *Radio-Canada*). The *Charte* would also protect the crucifix in the National Assembly, an aspiration which Marois does not perceive as contradictory with the goals of her charter (Rédaction, No date, *Pontransat*). Interestingly, in August 2012, Marois also maintained that her *Charte* would end the practice of reciting a prayer before city councils, as Jean Tremblay continues to do to this day (Sophie-Hélène Leboeuf, August 14th, 2012, *Radio-Canada*).

Criticisms of the *Charte*

Some commentators during the election period and at later stages in the debates surrounding the proposal found many faults with Marois' proposed *Charte*. Pierre Bosset, UQAM professor of legal sciences, argued that the *Charte* established a hierarchy of rights, namely gender equality over freedom of religion, which is problematic. He also maintained that the PQ promise of bringing clarity and objectivity to the reasonable accommodation process is simply smoke and mirrors used by the PQ to gain electoral support, since there will always be some subjectivity in the process of reasonable accommodation (in Sophie-Hélène Leboeuf, August 14th, 2012, *Radio-Canada*).

Moreover, Anglophone and Allophone communities have reacted badly to the proposal since it seems to be characterised by racism and xenophobia (Annie Mathieu, August 15th, 2012, *La Presse*). Kathleen Weil, the Liberal minister who introduced Bill 94, (in Kevin Dougherty, May 22nd, 2013, *The Gazette*) as well as commentator Robin Philpot (August 19th, 2012, *Vigile*) felt that the *Charte* would push good workers away from government jobs and potential immigrants who may embrace Quebec's society and cause away from Quebec, for fear that they would not be allowed to freely practice their religion. Moreover, scholar Micheline Milot (2013) worries that the *Charte* may not foster "a more inclusive common sphere of citizenship [in Quebec] and the ability to live together" (p. 41).

Lastly, Robin Philpot (August 19th, 2012, *Vigile*) questions the contradictions that would remain if the *Charte de la laïcité* were ever instated. He wonders

"Comment justifier le crucifix de Duplessis à l'Assemblée nationale, lieu suprême de l'État, mais en même temps, chasser de son emploi une enseignante qui choisit de porter le foulard islamique et qui enseigne à une école portant le nom Cœur-Immaculé-de-Marie ou encore Marie-de-l'Incarnation[?]"⁶²

Therefore, it is clear that contentions over the interpretation of symbols as religious and others as not religious would still remain even after the *Charte*.

Where is the *Charte* Today?

Despite the prominence of the *Charte de la laïcité du Québec* in the PQ's electoral plan, almost a year after their election, the *Charte* has yet to be instated. Most recently, the

⁶² "How can one justify Duplessis' crucifix in the National Assembly, supreme location of the State, but at the same time, chasing away from her job a teacher who chooses to wear the Islamic veil and who teaches in a school named [Mary's-Immaculate-Heart] or [Marie-of-the-Incarnation][?]"

debate has been delayed until September (Jean-Marc Salvet, May 23rd, 2013, *La Presse*). According to Bernard Drainville, the minister in charge of the issue,

“Il y a beaucoup de gens qui m'ont dit : 'c'est un débat qui est tellement important pour notre société, que tu devrais attendre au retour des vacances de l'été pour déposer les propositions, tu devrais, sur un débat aussi sensible, attendre que les gens reviennent des vacances, ils sont frais et dispos, c'est une nouvelle saison qui commence à ce moment-là'”⁶³ (quoted in *La Presse Canadienne*, May 22nd, 2013, *Radio-Canada*).

According to Philippe Couillard, current leader of the PLQ, this delay might be caused by the PQ's plans to prepare for an election in the foreseeable future, since they will search for themes to rally the population (*La Presse Canadienne*, May 22nd, 2013, *Radio-Canada*). Journalist Jean-Marc Salvet (May 23rd, 2013, *La Presse*) agreed that the PQ intends to present itself as a defender of identity issues when the next elections comes. Recently, calls for the government to speed up the process and instate the *Charte* have been particularly prominent in the wake of the prayer in Saguenay case with many opponents of the Quebec Court of Appeal decision demanding that the government reverse the decision with the *Charte* (Marie-Andrée Chouinard, May 28th, 2013, *Le Devoir*; Marilyse Hamelin, May 29th, 2013, *Journal de Montréal*).

In addition to delaying the debate, Drainville has announced that the *Charte de la laïcité du Québec* has a new name: the *Charte des valeurs québécoises*.⁶⁴ Drainville felt that the name is more positive and that it better reflects the charter's new broader scope than what was initially proposed (*La Presse Canadienne*, May 22nd, 2013, *Radio-Canada*; Kevin Dougherty, May 22nd, 2013, *The Gazette*). However, Jean-Marc Salvet (May 23rd, 2013, *La Presse*) maintained that religion would still be at the center of the document. Hopefully, in September, Drainville and the PQ government will reveal its charter and Quebec's policy towards religion in the public sphere will become clearer.

Conclusion: *Laïcité* in Quebec

In the past decades, an increasingly globalizing world has changed the province of Quebec from a mostly homogeneous white, francophone, Catholic population, to a religiously and ethnically diverse one. Issues of accommodation, mostly related to religious difference, have characterized this new context, leading to a period of debate over religious accommodations in the first decade of the new millennia. Cases, such as the *École de technologie supérieure* prayer room case, where Muslim students demanded an accommodation that would allow them to pray comfortably at school, which the Commission des Droits de la Personne et des Droits de la Jeunesse accorded, fed in to the reasonable accommodation crisis, which resulted in the Bouchard-Taylor Commission and

⁶³ “There are many people who told me: ‘it’s a debate that is so important for our society that you should wait until the end of summer vacations to table the propositions, you should, with such a sensitive debate, wait until people come back from vacation, they will be refreshed and ready to go, a new season will begin at that moment.’”

⁶⁴ Charter of Quebec values.

the emission of their report, which further polarized opinions on issues of religious accommodation and *laïcité*.

Controversy over religious accommodation and religious presence in the public sphere continued even after the conclusion of the Bouchard-Taylor Commission. In the aftermath of the commission, the Liberal government took two notable actions. First, the government ensured the protection of the crucifix hanging in the National Assembly, in the wake of Bouchard and Taylor's recommendation to remove it. Next, the government tabled Bill 94, which would effectively prevent Muslim women wearing the *burka* or *niqab* from receiving or dispensing government services; the Bill was essentially rejected because the PQ opposition felt the bill did not go far enough in restricting religious expression in government institution.

Other issues with religion in the public sphere have also arisen since the Bouchard-Taylor Commission. In the 2012 electoral context, controversy over the presence of unlabeled *halal* meat in the regular market arose, with PQ, PLQ and CAQ commentators calling for mandatory labeling of *halal* meat, to protect Quebec values, consumer rights and animal rights, while detractors felt that politicians were too alarmist, since there is essentially no difference between *halal* and non-*halal* meat. More recently, the Fédération de soccer du Quebec decided to ban turbans on soccer fields because of security concerns and lack of clear FIFA instructions, with some commentators pointing to the incompatibility of the turban's religious character with Quebec values and the spirit of the game of soccer, while opponents of the ban felt that the ban was discriminatory, and that claims related to security were baseless. The ban was eventually reversed. Lastly, Saguenay mayor Jean Tremblay recently won a case in the Quebec Court of Appeal allowing him and his municipal council to perform a prayer before meetings, which some felt was harmless and in line with Quebec traditions, while others feared that the practice would threaten the neutrality of the municipal government.

A preliminary examination of the cases seems to point to some incoherencies. While the government protects the presence of the crucifix in National assembly and the QCA ruled to tolerate the practice of reciting a prayer before municipal council meetings in Saguenay, the government has also decried the presence of *halal* meat in the market, tabled a bill prohibiting the *burqa* and the *niqab*, which was eventually rejected because it did not prohibit enough religious expression in the public sphere, and supported the FSQ's turban ban. Therefore, it seems that the government tends to protect the presence of Catholic remnants in the public sphere while attempting to limit the presence of other religions. Moreover, interpretations of Catholic practices as "traditional" or "patrimonial" instead of religious justify their tolerance, while the interpretation of practices of other religions as harmful to Quebec values and as illegitimate or insincere, pointing to a general trivialization of religion among the *Québécois de souche* population, lead to criticism of such practices in the public sphere. Diverging definitions of Quebec *laïcité*, including that of Bouchard and Taylor, which has attracted criticism, and of various terms related to the decreasing presence of religion in the public sphere bring further confusion when it comes to the meaning of Quebec *laïcité*.

Laïcité, which has a long history within the history of Québécois relations with religion, seems to be a social issue today, with many commentators decriing that it is threatened by religious diversity and incomplete. There have been many calls for the government to legislate an official definition and policy of *laïcité*, including Bouchard and Taylor's recommendation. The PQ government elected in 2012 promised such a legislation to their voters in the form of the *Charte de la laïcité du Québec*, now renamed the *Charte des valeurs québécoises*. While their project has attracted polarized opinions, continuous delays have left the project in limbo. To say the least, it seems that expectations for the Charte are high, since the issue of religious accommodation is an important and convoluted one, and since the government aspires to produce an absolute definition of *laïcité* and clear guidelines for accommodation. The importance of the issue and the government's ambition explain the delay. Whether the Charte will actually provide clarification, or will simply lead to more controversy, is still unclear. Controversy seems more likely since the government plans to essentially solidify its double standard when it comes to the treatment of Catholic and non-Catholic practices. Therefore, the *Charte* may not conclude the debate. The very length of the debate and the variety of often competing perceptions of the issue reflects the complexity of religious accommodations and of the place of religion in the public sphere.

Acknowledgments

The research on which this report is based was made possible by a grant from the Social Science and Humanities Research Council of Canada in support of the Centaur Jurisprudence Research Project directed by Professor René Provost of the McGill University Faculty of Law and Centre for Human Rights and Legal Pluralism. Other faculty members involved in the project include Kirsten Anker (Law, McGill), Eric Reiter (History, Concordia) and David Howes (Sociology and Anthropology, Concordia).

http://www.mcgill.ca/files/humanrights/Centaur_Project_Description.pdf