CONSTITUTIONAL PATRIOTISM AND THE POST-SECULAR SOCIETY: ON THE QUESTION OF "REASONABLE ACCOMMODATION" IN QUEBEC

Norman Madarasz[*]

ABSTRACT: In Canadian politics, the Bouchard-Taylor Commission marked the real entrance of the question of religious plurality into the multicultural debate and drew the latter into the legal domain. In constitutional terms, the upshot would seem to be that, for the sake of integrating immigration communities, faith ought to be granted greater conceptual and argumentative value than culture, be that understood as the political culture at the State level or broader lifestyle issues as understood as taking place in civil society. In light of this debate, it is appropriate to examine Charles Taylor's views on religion and secularism. Taylor's views on multiculturalism confronted a singularity in the domestic affairs of the very province whose existence at the transnational level, i.e. in Canadian Confederation, gave much of the spark to his work on the politics of recognition. What he has advocated for Quebec as part of his work with the Commission by means of the concept of "interculturalism" is more akin to the recent positions put forward by Jürgen Habermas on the idea of a postsecular society, especially in light of his thought on constitutional patriotism. In this paper, we should like to argue that the chances for a broader and more inclusive concept of Quebec's specificity at the *internal domestic* level, lies in a remodeling of its historical narrative according to the terms of constitutional patriotism. Quebec's newfound religious diversity is the key integrative operator to this model.

KEYWORDS: Quebec; reasonable accommodation; constitutional patriotism; postsecular society; interculturalism; Taylor-Bouchard Commission.

---

[*] A Canadian, Professor and Chair of the Graduate Studies Program in Philosophy of Universidade Gama Filho in Rio de Janeiro, Brazil. He earned his B.A. Honors in Philosophy at McGill University, and his Master and Ph.D. from the Université de Paris 8, under Alain Badiou's supervision.

Public experiments in political conciliation are not legion. While few of them can be said to pertain to the contemporary concept of "event", experiments triggered by recent trends in immigration, such as the public hearings held in Quebec in 2007-2008 known as the Bouchard-Taylor Commission, prove to have philosophical, political and constitutional consequences of a universal nature. These hearings – placed under the auspices of philosopher Charles Taylor and historian Gérard Bouchard – tested the chances for a broader and more inclusive concept of Quebec's specificity as a French-speaking province of what is an essentially English-speaking country to all its citizens. In light of the final Report published by the Commission, it is important to observe that the promise of the hearings cannot be achieved without contemplating the remodeling of Quebec's historical narrative. By that I do not mean the whole aftermath of "*La Conquête*" – some events do, after all, constitute historical fact. Instead, I point to the specific narrative marshalling resistance to the recommendation of a law on interculturalism and de facto secularism formulated by the Commission in its final report entitled *Le temps de la conciliation.*[1]

Many of the questions raised by the Commission indirectly deal with the challenge brought to a nation's continued harmony and cultural survival. Internationally, it is well known that Quebec is a French-speaking province-nation within a larger bilingual confederation, Canada, to which it belongs as a result of a military conquest over two hundred years ago. The survival of the Québécois people (who in the nineteenth century were called simply *Canadiens*) against British assimilation policies is partly due to a closure of the French-Canadian society to outside influence. This position was reinforced by the Catholic Church in the wake of a national cultural depression stemming from defeat in the 1837-38 "Patriotes" Revolt. When Quebec finally emerged on the world stage in the 1960s, it encountered immediate vulnerability on a continent in which very little of the French colonial past had survived. Of *Nouvelle France, l'Acadie* and *Louisiane,* merely the lower Saint-Lawrence River villages remained French-speaking in their majority. Yet the very cause of Canada's official bilingual turn in the 1969 *Official Bilingual Act* is the nation-building of which the Québécois were capable – in regard to which Canada's future coherence as a confederation was threatened.

---

[1] For example, see: Robitaille, 2008.

Since the 1960s, laws and constitutional amendments have been introduced at both the provincial and national-federal levels to preserve Quebec's cultural identity. However, Quebec soon began to feature reduced demographic expansion, typical to other affluent Western states. As a result, the continued strength of the French-Canadian majority in Quebec depends on the selective immigration of French-speaking persons from other francophone countries. In most cases, these new Québécois-Canadians come from other cultural and religious backgrounds than those most prominent hitherto in the province. Hence, the semblance of a cultural crisis which sparked the consultation process over the kinds of cultural differences to be accommodated in the domestic setting.

The most challenging prospect Quebec as a nation faces is to reconsider the identification of its sovereignty according to the Nation-State model.[2] Although still largely at a latent stage, what the Bouchard-Taylor Commission appears to have awoken as a historical possibility is an alternate model of citizenship whose very form is recent to the annals of political debate. The name this form takes in the Commission Report is "interculturalism". Another name it might go by is constitutional patriotism, a key concept in J. Habermas' later philosophy, with religion becoming the key operator.

In this paper, then, I look at the recent events in Quebec history pertaining to the option of a new understand of citizenship based on the interculturalist model. Then I discuss two articulate French-Canadian positions *against* – or more or less against – constitutional patriotism. Finally, I look at J. Habermas' work with greater scrutiny. At this point, my aim is to take on another concept ultimately contrasted with Charles Taylor's categories, i.e. the "post-secular society" concept. I seek to understand this concept by means of the discussion on citizenship. For the question of nation-state vs. constitutional patriotism is an issue Quebec can no longer avoid, whether or not there is a common goal expressed over achieving independence from Canada. But the debate is surely not limited to Quebec. Indeed, Canada as a whole is already steeped within it, as

---

[2] It is important here to understand "sovereignty" as a concept in political philosophy in reference to the inalienable right to political autonomy of a people, instead of the name given to Quebec nationalists, in the tradition of former Premier René Levesque (in power between 1976 and 1983). His party, *Le Parti Québécois,* forged the process of "sovereignty-association", which was ultimately defeated in the Referendum of 1980. The distinction should be clear once we consider the French-language use of the term *indépendantiste*, as distinct from sovereignists per se. One can argue that the Québécois people, like all people, is already sovereign.

are societies in which religious pluralism challenges the dominant general configuration, in this case, Christianity.

What the Bouchard-Taylor Commission marks is the real entrance of the question of religious pluralism into the multicultural debate. It has drawn the latter into the legal domain regarding the highly sensitive Nation-State context of Quebec autonomy, i.e. sovereignty broadly understood. In recent years, Taylor's political hermeneutics has taken a swift interest in questions of religion in the secular aspect of modernity, to which he has sought to provide foundational footings.[3] In many ways, the Commission's orientation is an application of Taylor's recent postulate that we have moved into a post-Durkheimian religious configuration. According to this view, first put forward in 2002 in his *Varieties of Religion Today,* we – Christians at least, and perhaps merely Catholics, if one is to judge by the finality of his most recent, *A Secular Age* – are living in an age in which collective forms of the sacred lie fragmented, the ultimate effect of which is corruption of the understanding of collective being as a whole. This fragmentation's receptacle would be brute consumerism, at best. At worst, the only group thought that actually works would seem to be the managerial projections of the ideal, but ultimately socially restrictive and economically exclusive, corporate environment.

Through immigration, religion has become a political question in various Western countries – notwithstanding that migration of peoples has always made religion a political question. Historical background is what potentializes political propensities, and few forces are as powerful as ethnic belonging. Regarding Quebec, the task is to maintain structural cohesion of an ethnic nation-state with the integration of other cultural practices, whose philosophical relationship to the new residential context is ambivalent, at best. Such tensions between religious confessions and cultures has led Taylor to develop a political religious philosophy of history, requiring, as he puts it in the closing words of *A Secular Age,* that "we understand religious/spiritual life today in all its different thrusts, resistances, and reactions, e.g. to discipline, homogenization."[4] But

---

[3] I have discussed Taylor's more recent writings on religion in "On the Sophistication and Limits of a Philosophy of Religion" in *The European Legacy. Toward New Paradigms*, v. 12, p. 87-92, 2007, and "The Secularist Counter-Narrative in Charles Taylor's Philosophy of Religion", in *Ethica. Cadernos acadêmicos,* v. 16, n. 2., 2009, p. 81-112.
[4] Taylor, 2008: 776.

Taylor also draws from a broader perspective on our times. He argues that we live in a new *moral* order, whose primary agent is the idea of order as mutual benefit for individuals living within the collective spaces of the social imaginary. In short, there are no more higher-order transcendent concepts to guarantee our way ahead. The success of a society is predicated upon the negotiated practices shaping the public space. Quebec's future cohesion depends on such negotiations.

In terms of constitutionalism, the upshot of this conceptual configuration would appear to be that, for the sake of integrating immigrant and ethnic communities, faith in a certain God ought to be granted at least equal, if not greater, value than culture, be that understood as the political culture at the State level or broader lifestyle issues as understood as taking place in civil society. This is a delicate point. In light of the publication of the Commission's hearings and internet questionnaire responses, which reportedly gathered some 50,000 respondents, Taylor's venture into the reasonable accommodation hearings seemed to be a certain quest to check his theses within a constitutional setting on the modification our societies ought to bring to the concept of secularism. In *Modern Social Imaginaries,* Taylor specifically argues that "modernity is secular [...] in the fact that religion occupies a different place compatible with the sense that all social action takes places in profane time."[5] As the empirical experience still clings so closely to the theoretical cloth of Taylor's modelizing, I should like to shift the comparative grid by which to analyze the configuration he sets up. Such a shift provides us with the means by which to theoretically analyze the reasonable accommodation inquiry. There is where Habermas' work turns out to be most useful.

As opposed to Taylor, Habermas is actually a further step removed from a descriptive stance. I argue that with Taylor's move into the constitutional question with the work of the Commission, however indirectly, the real test at hand is whether *Habermas'* notion of constitutional patriotism can withstand the prototypical situation Quebec represents. There is a shift from Taylor's multiculturalist model to the interculturalist one he advocates for Quebec. The interculturalist model is steeped in a practical logic similar to Habermas' patriotic constitutionalism. Of the two contexts that led Habermas to explore this concept, its pertinence to Quebec has more to do with the

---

[5] Taylor, 2004: 194.

debate on the European Constitution than with that of the united Germanies, due especially to the presence of different confessions within the same geo-political space.

Religion has always played an important role in Habermas' theory of culture and cultural development; rarely though has it left the background. As of the essay "Faith and Reason", in *The Future of Human Nature,* the distribution of priorities changes. Habermas has found an astonishing category by which to express it in the "post-secular society":

> the expression "postsecular" is not a genealogical but a sociological predicate. I use this expression to describe modern societies that have to reckon with the continuing existence of religious groups and the continuing relevance of the different religious traditions, even if the societies themselves are largely secularized. Insofar as I describe as "postsecular," not society itself, but a corresponding change of consciousness in it, the predicate can also be used to refer to an altered self-understanding of the largely secularized societies of Western Europe, Canada, or Australia. [6]

In what comes down to a contrast between Taylor and Habermas on constitutionalism, it is appropriate to formulate a few questions to guide us along. Does the association of reasonable accommodation as a constitutional concept and matter suggest we are indeed in a post-secular society? If so, is the upshot of this that the notion of constitutional patriotism, apparently so far off the mark as a model for a society like Quebec, nonetheless manifests a distant horizon of possibility for Quebec provided that the society's relationship to religion become, indeed, post-secular? Were the latter indeed the case, then the lamentable condition of being an immigrant in Quebec would be the proof precisely of the Nation-State's inability to provide a harmonious living condition to its ethnic communities, especially as regards the question of the sovereignty of the people. For the "people" in Quebec may not be an entirely all-inclusive concept. What better reason, then, to move on from the republican nation-state model to a cosmopolitan or interculturalist model as Habermas and Taylor advocate for Europe and Quebec, respectively? Finally, given the complexity of these questions, it seems appropriate to examine how far faith can be sustained as a discursive stance in this political and legal direction.

---

[6] Habermas, 2010: web.

THE BOUCHHARD-TAYLOR COMMISSION

The central notion on which the "*Commission de consultation sur les pratiques d'accommodement reliées aux différences culturelles*" (CCPARDC) was based is the idea of "*pratiques d'accommodement*", or reasonable accommodation. In 2007, the commission was given a mandate by the Provincial Premier Jean Charest to receive testimonies from as broad a range of Quebec citizens as possible regarding the respect of civil liberties, including religious and cultural differences, in the province. By various accounts, the commission successfully achieved its aim at prompting the general public to voice its mind at the nature of Quebec´s new demographic and cultural transformation.

In the context of the Quebec debate, the notion of reasonable accommodation is a proposal on making norms more flexible, especially religious and ethnic norms, so as to be able to reverse what a prior specific norm would have produced in terms of value theories or judgments. The term derives directly from the labor context. For example, the U.S. Code of Federal Regulations stipulates that "in general, an accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities."[7] Given that equality is a citizen's fundamental right whether she be Canadian or Québécois, what an individual might suffer in discriminatory damage has turned into the question of respecting this right and correcting the damage, as if it were the result of an initial litigation on exclusion – real or perceived – such as may affect the physically challenged in the workplace. On February 8, 2007, in Quebec, the Bouchard-Taylor commission was thus implemented to attend to the expressions of discontent in the population regarding cultural, religious integration.

More than a mere question of policy, the Commission was a veritable political decision on behalf of the provincial government, which is currently represented by the Liberal Party of Quebec. Its main guideline on practice was to require recent immigrants to respect liberal democracy and the French language. In return, the host society would commit itself to facilitate social, economic and linguistic integration for immigrants. Its

---

[7] US Code of Federal Regulations pt. 1630 app. § 1630.2(o) (1997). <<http://www.eeoc.gov/policy/docs/accommodation.html#N_3_#N_3_>>

overall aim is to foster the value and respect of cultural pluralism, and stimulate participatory democracy based on an interculturalist platform.

From the perspective of debates in contemporary political and legal theory, it may be observed how "reasonable accommodation" is an attempt at expanding multiculturalism into the religious domain. From this observation, however, I would like to argue against the optimism of a mere cultural expansion of the category of multiculturalism. This position is backed up by both Taylor and Habermas, who pick up on a deeper social transformation at work, which is the religion question, regardless of how devoid of causality it is regarding flexibility in immigration affairs. The gap between Taylor and Habermas previously encountered on the question of whether to grant minorities rights is considerably diminished in the new constitutional context of Europe and Quebec. Yet religion's transformational role in the secular civil society remains so novel that the very category raises some preoccupying issues regarding theory itself when it takes on a prescriptive role. The theory of multiculturalism and Habermas' first presentation of the idea of constitutional patriotism were both descriptive in form. The phenomenon of the growing non-European face of Canada, and the historical nature of East Germany's integration into the liberal Federal Republic, i.e. the context that drove Habermas' concerns, existed de facto. They both called out for a theoretical assessment of their significance for each culture, respectively.

Lately, however, Habermas' applications of constitutional patriotism to the sphere of the European Union, and the debate over the type of constitution the EU ought to have, have become far more prescriptive in nature. Habermas has strictly declared that there is no future for the nation-state in the EU conception of rights. In 2004, he stated that "the democratic federative state in its large format – the world republic [even were we to apply it to a reduced world] – is a false model."[8] Likewise, with the religious renewal spreading its wings throughout the West, and perhaps the world, it no longer makes sense to argue in favor of a strict divide between faith and reason when dealing with issues of politics and religion. This is also one of the working hypotheses of Taylor's *A Secular Age*, unfolded as the mode of "secularity 3", i.e. "it consists in new conditions of belief; it consists in a new shape to the experience which prompts to and is defined by belief; in a

---

[8] Habermas, 2004: 137.

new context in which all search and questions about the moral and spiritual must proceed."[9] Clearly, there are elements of faith that lend themselves to discussion and debate. They are also ideally some of the operators at work behind the most convincing argument for a community's task of reconstructing its self-identity.

In terms of a social theory aiming for the inclusion of its different parts, Habermas is more convincing when arguing both with and against liberalism, that a renewed understanding of pluralism ought to begin with citizens' civic sensibilities, and especially civil liberties, which would incorporate pluralism in the broadest of religious, non-religious and anti-religious of senses. This is a position he described in 1994 as follows: a "correctly understood theory of rights requires a politics of recognition that protects the integrity of the individual in the life contexts in which his or her identity is formed."[10] Against this background of Habermasian thought, the question to ask is whether "reasonable accommodation" has the wherewithal to deal with the crisis of a nation-state's ethnic composition. The debate on reasonable accommodation is no less political in a persuasive sense than is constitutional patriotism, since it strives to settle a dilemma faced by nationalists since the 1970s, i.e. one of the impediments to the development of democracies as the embodiment of a nationalist narrative. Namely, immigrant, Amerindian and Anglo populations have been quite reluctant to support Quebec's bid for greater autonomy, to say nothing of independence, which each group has often interpreted as approaching the limits of democratic practice. Indeed, they generally remain obtuse to Quebec´s struggle for autonomy even after several generations lived in the province-nation. Like in most societies, Quebec also has its social problems due to inter-minority tensions. This has been reflected in recent studies marking an increase in acts of "overt racism" based on race, ethnicity or skin colour in the country, and anti-Islamic ones in Quebec, in particular. Furthermore, as in France, "secularism" has begun a new course in which the aim is apparently (deliberately or not) to stifle religious pluralism in the name of an ill-conceived republican ideal.

While it is hardly surprising to encounter outright expressions of racism directed against incoming populations from other cultures, Quebec's case is quite specific in that

---

[9] Taylor, 2007: 20.
[10] Habermas, 1994: 113.

race and racism are an irreducible issue in the question of its own quest for sovereignty. Let's turn back to one of the decisive statements, and moments, of the ethnic question in the constitutional debate in Quebec. "We lost the referendum because of money and the ethnic votes", so declared then-Premier Jacques Parizeau upon the referendum defeat on the night of 30 October 1995. Apart from being a widespread sentiment in independentist circles, the origin of that statement seems to have been then-special advisor to the premier, Pierre Bourgault, who died in 2003. Bourgault is cited earlier in 1995, as saying that, contrary to Quebecois nationalists, it is the Italians, Jews, and Greeks who are racists when calling for an "ethnic" vote against "sovereignty".

Notwithstanding their obvious air of xenophobia, Parizeau's words must have sounded a defeat for Bourgault's cosmopolitan spirit. After all, Bourgault was also someone who defended Haitian taxi drivers in Montreal from racist clients, struggled against economic oppression, revolted against any representation made of Québécois as a backward people only caring to protect their little wintery corner from the demands of a global international market. He went as far as to assert in 1982, in the English-speaking *Montreal Gazette,* no less, that "it is almost natural to be born racist; but it is a crime to remain one."[11] This is not to deny that Bourgault did not succumb to political excesses, just as many creative leaders tend to. Yet it was the embrace of a certain radical ethnic-linguistic nationalism which led him to found Quebec's first separatist party, the R.I.N.

For a long time, the 1995 statement on the ethnic vote marked a deep rupture between Québécois nationalists and progressive Anglophones, and especially "allophones". *Alos* in Greek means the others, here understood as non-English or Celtic immigrants. The hiatus that must be understood in the complex semantic dimension of that statement, however, was always self-evident – for those who wanted to hear it. As the passion of a defeated nationalist project, the statement marked the limit of the Nation-State in its task of absorbing the historical fact of the emergence of a minority into the legislative status now endowed to a majority. Such is part of the recent history of the Québécois. Even more, the statement marks a barrier to the hopes of integrating the growing cosmopolitan dimension of the demographics of the province-nation, in the historic idea of the nation-state based on language, religion and customs.

---

[11] Bourgault, 1989.

So might it be asked: does ethnic republicanism present a dead-end for a political desire axed on fulfilling autonomy, and perhaps independence, in Quebec? The plausibility of this statement – even were we to stand at opposing ends of this desire – points to the importance, within academic debate, of a reflection on patriotism and an analysis of how constitutional patriotism is being received by Francophone theorists in Quebec.

It seems fair to conclude that fifteen years after the 1995 referendum, the terms by which "ethnic" are defined might be changing. Despite media attention on racist expressions uttered during the Commission hearings, what must be emphasized is instead how smoothly they flowed.

ARGUMENTS ON CONSTITUTIONAL PATRIOTISM

The notion of constitutional patriotism encounters many convincing reasons for its exclusion from the sphere of implementation, where ever it may be. Outside of Europe and certainly outside of Germany, basic conditions often lack for the implementation of fundamental rights in a liberal-inspired constitution that provides the basic law governing over a multi-ethic configuration. In that measure, perspectives on Quebec show no exception.

Unsurprisingly for a culture in which the historial narrative on origins and state collapse are so prominent, there is no dearth of analysts and theoreticians from Quebec who negate outright any possibility of applying Habermas' theory in their own dominion. Likewise, North American critics of constitutional patriotism, in spite of the US being a typical example of its success given by Habermas, show the theory is far from having universal applicability.[12] To make matters even more constraining, Habermas has periodically emphasized that the emergence of this theory is inseparable from German national history. According to Habermas what distinguishes constitutional patriotism is that "the political integration of citizens ensures the loyalty to a common cultural politics. This is rooted in an interpretation of the constitutional principles of the perspective of a nation's historic experience. To this extent, interpretation cannot be ethically neutral […] At the same time, the ethical substance of constitutional patriotism cannot distract from

---

[12] Muller, 2004: web.

the neutrality of the legal system. […] The sensitivity to diversity and to the integrity of different life forms existing in a multicultural society has to be refined."[13] For many years, multiculturalism held the front stage in the debate that pit libertarians against communitarians. It was in this context that Taylor, unlike Habermas, espoused protection of collective rights in some circumstances. This was also the context in which Habermas' concept was shaped.

By contrast, the discussions presented by Québécois theorists Jocelyn Maclure[14] and Stéphane Courtois[15] focus on constitutional patriotism in the context of Quebec mainly as regards the question of the kind of rights to provide minorities in relation to the majority community. The aim of both is to check whether a normative model devoid of collective rights can fit the ethnic nationalism existing in the province.

In 2000, Courtois offered a pioneering study with a normative ambition on the French-Canadian perspective on constitutional patriotism. Prior to him, only Claude Bariteau in 1996, in "For a civic conception of Quebec" ("*Pour une conception civique du Québec*"), attempted a local application. Courtois' ambition was broader. He sought to present various writings of Habermas on constitutional patriotism within the context of Germany as well as the European Union. He brought ethnic nationalism to its limits regarding the possibilities involved in constitutional patriotism. Even more, he put forward an extensive analysis of the theoretical deliberation on democracy, showing that the recognition of collective identities is not incompatible with the system of individual rights. He went as far as to conceive of collective rights as not necessary in a republican-type constitution.

On the other hand, Courtois considers Habermas as underestimating the Nation-State as a legitimate political ideal, including for national minorities. He argues that the thesis on the superiority of federalist integration is mainly a preconception. From there, he defends the possibility of improving the republican idea of the Nation-State from a civic constitution. He accepts Habermas' argument, and indeed W. Kymlica's, according

---

[13] Habermas, 1994: 134.
[14] Maclure, 2003 and 2005.
[15] Courtois, 2000.

to which "there is no sense to seek an artificial guarantee, through law, of the preservation of a culture."[16]

As for the second argument *against* constitutional patriotism, Jocelyn Maclure, in *Récits identitaires,* and a conference given in 2005 in Paris as "the Conditions of Justice in the Context of Cultural and Religious Diversity: the Bumpy Road of Reasonable Accommodation", ("*Les conditions de la justice en contexte de diversité culturelle et religieuse: les voies (accidentées) de l'accomodement raisonnable*"), locates the normative dimension of the Quebec debate on multiculturalism and specifically in the criticism of the norm of neutrality typical to liberalism. Maclure asserts that "the movement of political affirmation led by French Canadians was the vector of the mutation of French Canadian cultural identity into a Québécois civic identity. Even if the new Quebec identity is civic, in the sense given by the Québec Government according to which a Quebecker is any person residing on the territory of Québec[17] the historicity of this society cannot be made to magically disappear."[18] That is, the 1760-1763 conquest and the struggle to preserve the cultural traditions of Nouvelle-France were that of a people as a whole in a colonial setting, and not merely the status of citizens in a *civitas.*

On the other hand, Maclure maintains that recognition of diversity is not incompatible with certain liberal or libertarian analyses, such as Kymlicka's. According to him, "the pretension to neutrality in a multicultural context is aporetic because common public norms do not emerge from a historical and cultural void."[19] Therefore, we are confronted with a possible trans-cultural liberal theory, but with an essential operator, namely, recognition of diversity. Whatever the angle might be, there appears to be a shift here in the referential field of liberalism's norm of neutrality.

The fundamental question of Quebec, and well beyond the concern of conflict springing forth from the question of the province's sovereignty, is the risk that beyond its apparent impossibility, nothing should be counted out of the possibility of whether the population can better reach its desire with a cosmopolitan constitution of the type proposed by Habermas. What appears more dubious is an attempt, of the type proposed

---

[16] Courtois, 2000: 295.
[17] Gouvernement du Québec,1990.
[18] Maclure, 2005: 8-9.
[19] Ibid.: 12.

by Courtois, of a model of the Nation-state reformatted in light of Habermas' critique of the institution. Even if Habermas wrote in 2001, that it is possible to contemplate a European federation in which the Nation-states are joined together, his position is more distant from republicanism. Even so Courtois writes "it appears more reasonable and more realistic to conceive of the [future Nation-State] according to the model of shared sovereignty."[20] In other words, Courtois emphasizes the position of Québécois national movements for whom the form of the Nation-State is only a preliminary to integrate super-national forms other than Canada's. As Bourgault once asserted, "Canada is too small for Quebec. Far from folding back upon itself, independence is an opening onto the world."[21] Yet abandoning the constitutional model of the Nation-State risks reducing, and even eliminating, the possibility of small states being integrated into these larger forms through the protection of international law.

Maclure sees room for changes in the state-structure narrative. After the defeats of the Meech Lake Accord (1990) and the Charlottetown Accord (1992) on constitutional reforms, Maclure argues in favor of a normative project confronting Francophones to the "task of building a civic regime adapted to the demography of contemporary Quebec and the political sensibilities of the actors present."[22] This involves integrating the eleven First Nations residing on Quebec territory, as well as the Anglophone minorities. It is to this view that Maclure prescribes a policy based on reasonable accommodation. Maclure is surely correct in his assessment that liberalist theorists will find his conclusion distasteful. This normative project is quite new, but points toward a fundamental transformation in Quebec toward a constitutionalization of its citizens. And even if the norm of recognition of diversity were able to function as a compass, Maclure stresses that applying a faculty of judgment that can separate the reasonable from the unreasonable in the domain of "accommodation" is indispensable as well.

As for Habermas himself, he expresses a specific position on the situation in Quebec in "*Kampf um Anerkennung*", translated in English as "Struggles for Recognition in the Democratic Constitutional State", in *Multiculturalism.* In this discussion, Habermas directly confronts Taylor on Quebec. For Taylor, Quebec presents a case of

---

[20] Courtois, 2000: 399.
[21] Bourgault, 1989.
[22] Maclure, 2005.

constitutional singularity. Whence the need for fundamental rights to be constitutionally guaranteed, specifically when, in his perception, forms of cultural life are being threatened. Taylor puts forward the justification in favor of communitarianism, i.e. guarantees of cultural life, culture here being understood as heritage and the near-consensual narrative of the origin of state and people, "would actively seek to *create* members of the community."[23] This *creative* dimension marks the originality of Taylor's proposal. It is the reason for which Habermas considers his position as valid. Furthermore, in the European context, Habermas insists on this constructive and creative element of constitutional patriotism. Oddly, we can find the same idea with a nationalist like Bourgault, according to whom "when I am asked what is a Quebecois? I answer a Quebecker is someone who wants to become one. Someone who takes upon himself Quebec's past, present and future." [24]This is self-creation in the flesh, indeed in the most profound philosophical, i.e. Nietzschean, variety.

However, from a normative perspective, Habermas does not share the need to preserve minority rights in a constitution. In the essay, he organizes a classification of liberation movements whose objectives are defined in cultural terms, instead of legal ones. The result of such an interpretation is that there are fundamental rights of Québécois citizens that have to be inscribed in a constitutional project, instead of in a statute in terms of minority-majority rights. In the typology introduced, the constitutional conflict between the Canadian government and Quebec is classified by Habermas as being a borderline case of a "(a) struggle of *oppressed* ethnic and cultural minorities for the recognition of their collective identities and (b) the *nationalism of peoples* who see themselves as ethnically and linguistically homogenous groups against the background of a common historical fate and who want to protect their identity not only as an ethnic community but also as a people forming a nation with the capacity for political action."[25] Summarizing his understanding of the Canadian-Quebecois issue, Habermas writes, " if I'm not mistaken, in Canada the debate is not about this principle of equal rights but about the nature and extent of the state powers that are to be transferred to the Province

---

[23] Taylor, 58-59, cited by Habermas, 112.
[24] Bourgault, 1989.
[25] Habermas, 1994: 117-8.

of Québéc [by the Federal Government of Canada]."[26] Habermas skirts the passion and pathos behind the Quebec movement for sovereignty by pinpointing the real question of Quebec independence, were its coming indeed an eventuality. It is the question of the nature of the state and state relationship between Canada and Quebec.

Therefore, were the idea of reasonable accommodation implemented as an explicit policy, or indeed political orientation, it would mark the integration of two models, i.e. republicanism broadly conceived and multiculturalism, in an actual society of citizens. This likelihood, though, still depends on the trust francophone Quebeckers show toward the federal government of Canada and federalism as a whole. Under its current form, the Federal Constitution is theoretically hostile to any demands for asymmetric collective rights granted to Quebec, unless of course these be enshrined in the Canadian Charter of rights.

A POST-SECULAR SOCIETY?

In Habermas' recent writings on religion one encounters an optimism according to which "religious tolerance is ineluctable", and that religion will find its place in post-metaphysical thinking in a rational mode, because it can already be seen that a "post-secular" society has emerged in the West. Or, as Habermas writes in "Faith and Knowledge", "a secularization that does not annihilate, is carried out in the mode of translation. This is what the West, as a universal secularizing power, may learn from its own history."[27] It is the work on the West's "self-image" that Habermas takes as a starting point to revise the civilizational impact that shock doctrine capitalism has had. As such, the categorization in the theory of communicative action between instrumental reason, strategic reason and communicative action still holds firmly. But the observation of a risk of political instability due to "communicative distortions" is what has led Habermas to seek a common platform and common language, between communities of faith and lay groups, in order to safeguard the constitutional bases of democracy.

One of the notions the reasonable accommodation debate revealed is the emergence of a post-secular society. It can be argued that the post-secular society

---

[26] Habermas, 1994: 128.
[27] Habermas, 2003a:152.

becomes a conceptual necessity for Habermas in trying to consolidate constitutional patriotism. Yet, the former risks consummating the latter., Despite all the argumentative safeguards, a post-secular society might very well transform secularism into its very opposite. In light of this, two separate declarations made by Habermas, several years apart are worth considering, closely. In 1988, he maintained that religious experiences could only become philosophical "when philosophy identifies with a description belonging to the universal dimension of a foundational discourse, separate from the event of the revelation."[28] Ten years later Habermas shifted his view when expressing "the sensation that the fundamental concepts of philosophical ethics developed until today, do not manage to capture all of the intuitions already found in nuanced form in the discourse of the Bible, and that can be known only through a semi-religious socialization."[29]

It is as if Habermas sought to complete Rawls's "public use of reason" with a boost from religion. In that regard he has referred to the work of T. B. Barry, *Culture and Equality* (Cambridge, UK: Polity Press, 2001), when defending that "the more comprehensive the cultural form of life, the stronger its cognitive content, and the greater it resembles a life structured by religious visions of the world."[30] The category of a post-secular society is the most suggestive sign in Habermas' thinking of the recognition of religion's growing importance in shaping the public sphere. Upon closer inspection, what is admirable in the notion is its commitment to participatory democracy. With it, Habermas exerts political pressure on institutionalized religions and other communities of faith that would like to see their congregations acting as good citizens. He establishes a deliberative politics and a formal normativity for the religious as well as for laypersons through the pretensions to validity of his own conception of the truth of faith, in order to integrate them into a constitutional democracy by means of a broader extension of his work on constitutional patriotism. That religions play an integral part in civil society, as for example Marcel Gauchet has argued in *La Religion dans la démocratie,* is a fact of constitutional democracies, the very ones that have become secular by separating State and Church(es). Habermas, like Taylor, are cognizant of the need for new modelizations in light of this.

---

[28] Habermas, 1991, 93.
[29] Habermas, 2003b: 215.
[30] Ibid.

Habermas addresses his word to citizens of faith as well as to those forging new spiritual paths. This is where one encounters the subtleness of his proposal. Meanwhile, our democracies are confronted with diminished representation, to the point of reaching real skepticism over the possibility of a "cognitive transformation". Such transformation is advocated by Habermas to translate into a common language the specificities of each religion relative to their commitment to a great project of constitutional democracy, i.e. one of a more deliberative character adequate to civil society. The question ought to be asked though whether it is plausible to bet on a "win-win" game with such an idea of democracy without conflict, one that has superseded the need to repress and silence opposition?

Democracy is the political system of hope for liberal thinkers like Habermas and Taylor. Now, it is true that many fundamentalists reject democracy for its low theocratic potential especially due to the recent commitment of democracies to preserve civil liberties in law. Commitment to democracy can be understood as the political state in which the particular liberty of citizens will have much to gain through a cognitive shift involving the will to *translate* the terms of individual and collective practice alike into a common language. Failure to understand this winds fundamentalists up with a diagnosis of an "aphasic fault". The plausibility of a more effective politics, and one that is more representative of civil society, thus, depends on a commitment to translate different axiological perspectives that still maintain their original embeddedness. However, it would be hasty to assume that democracy, per se, would preserve the conditions of such translation beyond all doubt and menace. As such preservation is a constitutional issue, allowing a state of law to embrace diversity might ultimately require a much broader conception of democracy than is commonly understood by the current referent of the capitalist oligarchist representational negotiation between the State and private enterprise going by the name of democracy today.

Furthermore, some religious movements have been especially creative from a political perspective. As Habermas puts it, a good political reason to guarantee religious pluralism is that "even egalitarian rational law has religious roots. The roots insert ways of thinking into the revolution, which coincides with the ascension of the great universal

religions."[31] Religious movements from the grassroots have a potential to dramatically alter the conception of liberty and equality, for beyond the republican equation linking these terms. After all, the first steps in the passing from the sacred to the profane occur from within the religious domain. This was surely the case of the civil rights movement in the United States, i.e. the African-American movement for racial equality, for example. Another example is the Liberation Theology movement in Latin American, which led the drive to demands for social justice and broader economic equality in countries whose progress was stunted by the violent reaction of oligarchies and the militant, with the collusion of the Vatican's Office of the Inquisition – headed by then Cardinal Ratzinger.

Here, one can find a clear affirmation of the internal capacity of religions to carry out social change, i.e. political and social transformation. This affirmation is typical of the Habermasian conviction of our collective capacity to reach higher forms of liberty, greater political effectiveness and increased moral awareness, with the commitment to constitutional democracy. At a time when the advance of religions seems to lull populations faced with the loss of national political economic perspectives through globalization, Habermas reminds readers of religion's fundamental role for culture as well as for politics, but always offering the terms according to which we ought to acknowledge the different truths in pluralist conceptions of religious faith.

To evoke multiculturalism again, Habermas is searching for the conditions according to which the other may also experience a cognitive transformation in a political expression of State tolerance with respect to demands for equal rights. Such is the pertinence of Habermas' concept for the future of Quebec. There are good historical grounds for defending, as far as Quebec is concerned, the province-nation's right to protect the francophone "minority-majority" as well as apply a constitutional model that at least latently recognizes the rights of communities within a republican-federalist model. The province has been granted, asymmetrically it can be argued, selective procedures over the entrance of immigrants depending, as it were, on their knowledge of the French language. That this is done democratically is commendable, and something Quebeckers should not demean. But the reality is that Quebec is in need of an important

---

[31] Habermas, 2003.

degree of allophone integration to maintain its specificity into the future as a North-American French-speaking culture. It requires collaboration from the Anglophones and Amerindians who have remained in the province. As was seen in the last referendum, Anglo and especially allophones tend to vote unanimously against the project of sovereignty understood as separation from Canadian federalism. Winning a future referendum may not be as former Minister Louise Beaudoin astutely, though optimistically, put it, a purely mathematical affair predicated on the continued flight of federalists to neighboring provinces. To that extent, what cannot be overlooked is how Quebec Province's share of immigrant population is increasing.

In light of the Bouchard-Taylor commission's accomplishment and final report, I have argued that Habermas' theory of the post-secular society is what we ought to be looking at to examine the chances of constitutional patriotism to reach the next form of secularism, i.e. Taylor's Secularism 3. It is our view that secularism continues to best fulfill many of religion's public proposals and is adequate to the social commitment of the various confessions. Secularism is the perspective on religion that provides us with the broadest philosophical background for looking at religions past and present in a rational vein, the best political education on the question of economic disparity, social injustice and State-based media-conglomerate forms of predatory economic policies. But it also poses the question of its own very limits, including it necessary ties to Christian moral philosophy. The importance of a discourse ethics is reiterated in Taylor's recent reflection on the Commission's conclusions, which he penned with Maclure. As they write,

> it seems reasonable to think that an ethic of dialogue, which respects different metaphysical and moral perspectives, is the best one to uphold the minimal moral policy […]. Faced with such an ethic of dialogue, citizens would frankly commit themselves to discussion on the fundaments and orientations of their political community, in the explicatory and justificatory language of their choice, while showing sensitivity or empathy with regard to the fundamental convictions that are the building blocks of the moral identity of their fellow citizens.[32]

---

[32] Maclure et Taylor, 2010 : 136-137. (Author's translation.)

EPILOGUE

The final Commission report was published in May 2008. It confirmed the need to bring in Habermas on the question with the two distinct concepts of constitutional patriotism and the post-secular society. There was something predictable about how the need for additional legislation on 'secularism' -- one of the Report's general recommendations – was going to bring up the daunting prospect of a constitution for the Province of Quebec. In fact, once the content of the final report was divulged, Mario Dumont, head of ADQ (Action Démocratique du Québec) one of the opposition parties in Quebec, was described as "extending his hand" to the governing party in the provincial legislature, calling for the start of debates on precisely a constitution for Quebec. This was predictably rejected outright by the current pro-federal Liberal party Premier, Jean Charest. In Dumont's own words, this debate would have advocated the protection of the collective rights of the Québécois of French-Canadian descent, even more than deliberating on the inclusion of the province's immigrant communities as 'minorities'.

This type of rationale, steeped in Quebec's historic national identity narrative, is what I argue to be most counterproductive to deal with the difficulties other minorities face in the province. Indeed, it was the situation of the latter, resulting in a twofold number of accommodation cases and triggering the so-called "accommodation crisis" of 2006, which prompted the government to set up the commission. It also led Taylor to modify his appreciation of the Québécois' minority status, beyond what he had argued in the "Politics of Recognition", namely from the "multicultural" to the "intercultural" framework.[33] Hence the interest in Habermas' constitutional patriotism, which specifically opposed constitutional protection for collective rights. But given that the collective groups here in question are often religious in structure, I chose to usher in the constitutional question in the context of Habermas' new prescriptive concept, the idea of a post-secular society.

One of the recommendations of the Commission's final report, *Fonder l'avenir. Le temps de la conciliation,* is to expand secularism in Quebec. Taylor and Bouchard argue for the need to remove the crucifix from the legislative chamber, perhaps the most symbolic of a host of recommendations meant to reinforce a separation of the State from

---

[33] Bouchard et Taylor, 2008a : 41.

identification with a single Church. The Commission considered that the church-state condition in Quebec in one of 'open secularism', precisely in which the symbolic dimension of the nation's religious tradition has been transformed into a source of national identification more than religious affiliation per se.

What occurred in the reactions to the Commission's recommendations, however, is somewhat more 'rigid'. In March 2008, a motion was immediately adopted unanimously by all parties in the Quebec legislature to maintain the crucifix in place, a gesture reapplied throughout the province regarding this symbol at various levels of government. The general feeling expressed in the media was that there is no reason to doubt that Quebec is a secular society -- and I would stress the choice of political domains here, i.e. *society* instead of *state* –, and that the symbol is a sign of Quebec's history.

Now Quebec's communitarian tendency is largely conditioned by its population's perception of its historical minority status. Whether this perception is justified in light of Quebec's history since the defeat of the Referendum in 1980 is open to debate. Despite the considerable autonomy granted to the province since the resignation in 1984 of the fiercely pro-Federalist French Canadian Prime Minister, Pierre-Elliot Trudeau's, and despite a tepid but latent acceptance at the federal level of the province's claims to use the notwithstanding clause for questions of national concern, Quebec's population of French-Canadian descent ought to consider how acknowledging their majority status can bring greater results not only in matters of integration of the province's minorities, but in matters of securing Quebec's distinction for the future. A flexible allophone view of the French Language Charter Bill 101, i.e. one that isn't immediate put off by its supposed repressive nature, would point to the success with which a share of immigrants has come to embed Quebec's national claims. With its slow demographic growth, Quebec needs its immigrants to prosper in the public as well as private sectors. It needs to overcome a democracy deficit with respect to its non-European immigrants.

In that regard, I would say that Habermas' twin problems of constitutional patriotism and postsecular society help clarify the broader political stakes that the Commission co-chairs attempted to approach from a non-confrontational stance. It grew necessary to include these issues. Nonetheless, and in their own way, the Commission

confronted the issue head-on of Quebec's ambiguous minority-majority status as being a symptom of what the nation-state model for Quebec could not conciliate.

The strictly defined sphere of the aspects of accommodation turns out to be precisely what Taylor and Bouchard see the need to go beyond.[34] As they write on p. 33 of the French language full-length version of the report (the English language version appears to be available in the reduced version alone), the study of accommodation tied to culture and religion as well as to the stakes involved in the latter, "led us to directly question the most fundamental sociocultural dimensions of our society."[35]

This goes in line with the general slide in questions of accommodation in the 1990s away from the labor context and towards matters of identity, as pointed R. Azdouz.[36] Having said that, Taylor and Bouchard rule out the task of exceeding the limits of the current constitutional framework, which would have "introduced ideological if not partisan choices in the undertaking, which have no place there."[37] This is where I argue that Habermas' broader view is most helpful. That's because Habermas advocates specifically the failings -- and not merely the passing -- of the nation-state.

Taylor and Bouchard cite a study by Influence Communication[38] that traces the changes in Quebec occurring in 2005 and 2006 in news reports dealing with the immigrant population. Cases of accommodation grew twofold in that period, which is what underlies the case of its moving from the labor context to matters regarding the institutions of State. Is Quebec's nation-state model, and the minority-majority condition, able to engage in "interculturalist", i.e. pluri-religious policies deliberated in the French language alone? This is what is not at all clear. On the other hand, it would take a major shift in national perceptions to implement the constitutional model, were it to come into effect. Indeed, what seems to be occurring in Quebec is instead *a process of de-secularization,* lying counter to Taylor's re-interpretation of secularism in *A Secular Age*.

---

[34] Ibid.: 33.

[35] Ibid. : 33.

[36] Recall the so-called "Kirpan Kid" Supreme Court ruling in March 2006, which overturned the Quebec Appeal Court ruling against 12-year-old Gurbaj Singh Multani's right to wear the Sikh Kirpan (which is a weapon-like object, whose use is prohibited by the Sikh confession.) It was then that the Supreme Court ruling used the term "reasonable accommodation" for the first time in connection with politics in Quebec.

[37] Op. cit., 34.

[38] Ibid., 38.

Over the last fifty years in Canadian history, Quebec has demonstrated a remarkable commitment to the state of law and due legal process regarding its quest to attain a self-satisfying condition of autonomy. One might argue that Quebec's persistence with the legal process has been facilitated by its growing affluence. By contrast, it may also be said that its recognition of binding decisions resulting from referenda has made affluence a possible trade-off given the economic prosperity of the Canadian confederation. Is it possible to universalize Quebec's changing demographic composition with the larger pluralist contexts that have sparked Habermas and Taylor's interest? The picture that has arisen in the wake of the Commission on Reasonable Accomodation certainly suggests it is so.

REFERENCES

Bouchard, Gérard, and Charles TAYLOR. 2007. Commission Bouchard-Taylor sur les pratiques d'accommodement – Pour aider le Québec à composer avec sa diversité. In *Le Devoir,* 15 août 2007.

_____. 2008a. *Fonde l'avenir. Le temps de la conciliation.* (Rapport abrégé). Commission de consultation sur les pratiques d'accomodement reliées aux différences culturelles. Gouvernement du Québec.

_____. 2008b. *Accommodements et differences. Vers un terrain d'entente: la parole aux citoyens.* Document de consultation. Commission de consultation sur les pratiques d'accomodement reliées aux différences culturelles. Gouvernement du Québec.

Bourgault, Pierre. 1989. *Écrits polémiques (1960-1981). La Politique.* Montréal: Stanké.

Courtois, Stéphane. 2000. Habermas et la question du nationalisme: le cas du Québec. *Philosophiques* 27(2) : 377-401.

Gouvernement du Quebec. 1990. *Au Québec pour bâtir ensemble. Énoncé de politique en matière d'immigration et d'intégration*. Québec : ministère des Communautés culturelles et de l'immigration.

Habermas, J. 1991. Excurs » in *Texte und kontext,* Frankfurt, Surkamp Verlag. [French translation, « Digression », in *Texte et contexte,* Paris : Ed. du Cerf, 1994].

_____. 1994. Struggles for Recognition in the Democratic Constitutional State. In *Multiculturalism: Examining the Politics of Recognition*, ed. Amy Gutman. Princeton, N.J: Princeton University Press.

_____. 2002. *Religion and Rationality: Essays on Reason, God, and Modernity*, ed. Eduardo Mendieta. MIT Press.

_____. 2003. Faith and Knowledge. In *The Future of Human Nature*, trans. by Hella Beister and William Rehg. Polity Press.

_____. 2003b. Um diálogo sobre Deus e o mundo. In *Era das transições.* Rio de Janeiro: Tempo brasileiro.

_____. 2006ª. *The Divided West.* Cambride, UK: John Wiley/Polity.

_____. 2006b. Toward a United States of Europe. discurso de premio parcialmente traduzido em ingles, de *Der Standard,* 10-11 de março de 2006.

_____. 2010. interviewed by Eduardo Mendieta, "A Postsecular World Society? On the Philosophical Significance of Postsecular Consciousness and the Multicultural World Society", *Monthly Review,* March 21, 2010. << http://mrzine.monthlyreview.org/2010/habermas210310.html>> Accessed on July 12, 2010.

Kymlicka, Will. 1995. *Multicultural Citizenship. A Liberal Theory of Minority Rights.* Oxford : Oxford University Press.

Maclure, Jocelyn. 2005. "Les conditions de la justice en contexte de diversité culturelle et religieuse: les voies (accidentées) de l'accommodement raisonnable" (1ere version), Conférence "Migration, Religion et Sécularisme", 17-18 juin 05, Sorbonne/ENS, Paris. Maclure, Jocelyn, *Quebec Identity. The Challenge of Pluralism* [préface de Charles Taylor], Montréal, McGill-Queen's University Press, 2003. Traduction de *Récits identitaires. Le Québec à l'épreuve du pluralisme*, Québec Amérique, préface de Charles Taylor, 2000.

Mclure, Jocelyn, e Charles Taylor. 2010. *Laïcité et liberté de conscience,* Montréal : Ed. Boréal.

Muller, Jan-Werner. 2004. « Is Euro-Patriotism Possible ? », in *Dissent,* Spring 2004.

PARENTEAU, Danic, « Commission de consultation sur les pratiques d'accomodement reliées aux différences culturelles – Pourquoi un tel débat au Québec ? », in *Le Devoir,* 28 août 2007, <http://www.ledevoir.com/2007/08/28/154797.html>

ROBITAILLE, Antoine, "Constitution du Québec: Charest dit non", in *Le Devoir,* 22 mai 2008. << http://www.ledevoir.com/politique/quebec/190739/constitution-du-quebec-charest-dit-non>> accessed on May 22, 2008.

TAYLOR, Charles [2002] *Varieties of Religion Today.* Cambridge, Mass. : Harvard University Press.

TAYLOR, Charles [2004] *Modern Social Imaginaries,* London : Duke University Press.

TAYLOR, Charles [2007] *A Secular Age,* Cambridge, Mass. : Belknap/Harvard University Press.