Religion in the public sphere:
The Quebec charter of values,
a critical reflection

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Abstract

Contemporary challenges on religious belief and practice occur often within democratic polities; they do appear as advocates for equality before law, state neutrality and for freedom of conscience. Such claims perceived as demands for equal justice mark the public sphere of the West thanks especially to an expanding consciousness of individual rights and increasing religious cultural diversity, a phenomenon due also to immigration. These are obvious signs of the Western society becoming more and more pluralistic, but in a way distinct from such traditional polities elsewhere. Whatever the advantages of a pluralist society, it is also seen as a potential threat to entrenched values. How would then a democratic regime deal with multiculturalism and religious freedom, guaranteeing social coherence and security, becomes a crucial contemporary issue. Employing the Quebec Charter of Values as a case in point, this essay highlights the importance of re-defining the public sphere. It has to be a discursive sphere which would only materialize when rationality and emotions play an equal role, in shaping the social body, especially through narratives. And religions do seem to have an important role to play here, not only in shaping a strong, open self-identity, but also in recognizing the common, human vulnerability.

Resumen

Los desafíos contemporáneos en la creencia y práctica religiosa ocurren con frecuencia en regímenes democráticos; aparecen como defensores de la igualdad ante la ley, neutralidad del estado y de la libertad de conciencia. Esas afirmaciones como las demandas por la igualdad en la justicia marcan la esfera pública del Occidente sobre todo gracias a una más amplia conciencia de los derechos individuales y de la creciente diversidad tanto religiosa como cultural, un fenómeno que

se debe también a la inmigración. Estos son signos evidentes de la sociedad occidental cada vez más pluralista, pero en una forma distinta de los regímenes tradicionales en otros países. Cualesquiera que sean las ventajas de una sociedad pluralista, también es vista como una amenaza potencial a los valores arraigados. Cómo podría entonces un régimen democrático con el multiculturalismo y la libertad religiosa, garantizar coherencia y seguridad social, se convierte en una importante cuestión de actualidad. Empleando la Carta de valores de Quebec como un ejemplo, este ensayo se destaca la importancia de volver a definir el ámbito público. Tiene que ser un ámbito discursivo que sólo se materializa cuando la racionalidad y las emociones juegan un papel igual, en la formación del cuerpo social, en particular, mediante narraciones. Y las religiones parecen tener un papel importante que desempeñar a este respecto, no sólo en el desarrollo de una fuerte, abierta identidad propia, sino también en el reconocimiento de la común, vulnerabilidad humana.

On 10th Sept. 2013, Bernard Drainville, the minister responsible for Democratic Institutions and Active Citizenship (*le ministre responsable des Institutions démocratiques et de la Participation citoyenne*) in Quebec, made available to the public a draft of Quebec Charter of Values (Bill 60). It was supposed to complete the long process of secularization initiated by the *Parti Québécois* (PQ). Almost immediately the proposed Charter was denounced as intolerant, oppressive, etc., and protests took place in Montreal and elsewhere. All the regional opposition parties sided with the protesters, although each of them had their own agenda, and stuck to the common notion of secular state irrespective of party affiliation. The prime minister of Canada, Stephen Harper, weighed in saying that the Charter would go nowhere should it threaten the constitutional rights of Canadians. There was also some support from adherents of the governing party to the proposed Charter; in fact, a demonstration was organized in its favor. Three former premiers, including Lucien Bouchard and Bernard Landry, led by Jacques Parizeau, an insider and key figure of the PQ, argued for a revision of the Charter.[1]

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[1] For the proposal and reactions, see, for example: http://www.nosvaleurs.gouv.qc.ca/fr; http://www.radio-canada.ca/sujet/charte-valeurs; http://www.lapresse.ca/actualites/politique/politique-quebecoise/201309/21/01-4691706-charte-des-valeurs-52-des-quebecois-en-faveur-du-projet.php; http://www.ledevoir.com/politique/quebec/388190/le-csf-a-peut-etre-perdu-toute-credibilite-pour-s-exprimer; http://fr.canoe.ca/infos/regional/montreal/archives/2013/09/20130922-181918.html; http://www.journaldemontreal.com/2013/09/25/chartes-des-valeurs-quebecoises—le-quebec-est-en-train-de-se-dechirer; http://www.franceinter.fr/emission-ailleurs-la-charte-des-valeurs-du-quebec-provoque-linquietude; http://quebec.huffingtonpost.ca/tag/charte-des-valeurs-quebecoises; http://www2.macleans.ca/2013/09/20/quebecs-war-on-religion/

Both the Charter as well as the demonstrations for and against it constitute not simply a provincial (Quebec) problem, but signify a trend of contemporary pluralist societies in the West, and the consequent challenge the Charter poses to democratic institutions and societal integration. For in contrast to traditional pluralist societies around the world, Western democracies distinguish themselves for their adherence to modern political structures and the consequent transformation of the public sphere in a way unique to these modern societies. In order to comprehend the implications of the Quebec Charter of Values (QCV), it would be therefore necessary to dwell on the concept of public sphere implicit in the proposal and the notions or nuances of it held by the opponents. In the following pages this essay elaborates briefly on the different notions of public sphere current in the Western democracies (I). An analysis of the QCV shall be undertaken in connection with the different conceptions of the public sphere (II), and finally a critical assessment of the different perspectives (III) should enable the reader to make up one's own mind which may facilitate a rational consensus. For conflicts of this sort shall be resolved in one of the following two ways: building a consensus based on rational reflection or arriving at a compromise disregarding the rationality employed for whatever reason.[2] The merits and unforeseen consequences arising from any of these choices do affect the society in general, but also the individuals targeted by the QCV.

I. Conceptions of the public sphere

A. In his study on the emergence and transformation of the public sphere,[3] Jürgen Habermas stops at the end of the bourgeois model, and does not elaborate on what functions in the social-welfare state of Western democracies. But this does not mean that his analysis has little implication to contemporary societies; in fact, scholars have critically appropriated his model to develop a concept of the social public sphere

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[2] Examples of such 'irrational' (not argued out) decisions are flipping a coin (as is often done to decide who kicks first during a football match; or opens a debate, as has been done by Steve Paikin on 8th April, 2014 at his Agenda show on TVO, http://theagenda.tvo.org/episode/202471/conversations-in-conflict), following the first come, first served principle, etc.

[3] Jürgen Habermas, *The Structural Transformation of the Public Sphere* (Cambridge, MA: MIT Press, 1991).

amenable to contemporary society. Following the exposition of the Habermasian inquiry by S. Benhabib we shall distinguish three conceptions of the public sphere: agonistic, legalistic and discursive.[4] Though typical of the public sphere conceptualized by H. Arendt, Benhabib attributes it to the republican and civic traditions, for in all these cases competition is the central feature: "According to the agonistic view, the public realm represents that space of appearances in which moral and political greatness, heroism and preeminence are revealed, displayed, shared with others. This is a competitive space in which one competes for recognition, precedence and acclaim."[5] Arendt, however, conceives the public sphere also in an associational sense, which though worthy to be reckoned with in contemporary politics, according to Benhabib, does not in her writings highlight "the link between power, legitimacy and public discourse."[6] In contrast, the legalistic conception, which is the liberal one, does this.

Despite differences between the contemporary exponents of liberal thought, common to them all, argues Benhabib, is not simply an emphasis on reason in accepting or rejecting the positions advanced in the public sphere (i.e. in public dialogue), but the defense of neutrality at all costs: against claims of a better conception of the good as well as of intrinsic personal superiority.[7] However "… in it [the liberal model of public space] political relations are often conceived of far too narrowly along the model of juridical ones. The chief concern expressed by the idea of "dialogic neu-

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[4] For this section I am indebted to: Seyla Benhabib, "Models of Public Space: Hanna Arendt, the Liberal Tradition, and Jürgen Habermas," in: Craig Calhoun (editor), *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992), pp. 73-98. The typology agonistic, legalistic and discursive is borrowed from Benhabib, ibid, p. 73. The article, "Models of Public Space: …" has been revised and re-published in: Seyla Benhabib, *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics* (New York: Routledge, 1992), pp. 89-120. In the following discussion, I shall be including the revisions when and where appropriate.

[5] S. Benhabib, "Models of Public Space: …," pp. 77-78. For further comparison and contrast between the Arendtian and Habermasian models, see: Seyla Benhabib, *The Reluctant Modernism of Hannah Arendt* (New York: Rowland & Littlefield, 2000), pp. 200ff.

[6] S. Benhabib, "Models of Public Space: …," p. 81. To the associational sense of the public sphere, we shall return below.

[7] "The most significant conversational constraint in liberalism is neutrality, which rules that no reason advanced within a discourse of legitimation can be a good reason if it requires the power holder to assert two claims: (a) that his conception of the good is better than that asserted by his fellow citizens; or that (b) regardless of his conception of the good, he is intrinsically superior to one or more of his fellow citizens." S. Benhabib, "Models of Public Space: …," in: *Situating the Self: …*, p. 96.

trality" is that of the rightful coexistence of different groups in a pluralistic society, each with its different conception of the good. The just in modern societies, it is said, should be neutral vis-à-vis fundamental assumptions concerning the good life."[8] This formulation benefits her argument on two counts: first, it recognizes the validity of the liberal position for its defense of rationality, a feature all contemporary political theorists admit, and second, it questions the bracketing out (*epoché*) of variant positions (reminiscent of the phenomenological stand adopted by Arendt, but not really shared nor acknowledged by the liberals) which in effect is contrary to justice, a point feminism attempts to highlight.[9] Benhabib's critique of liberal neutrality is for its lack of inclusiveness, for the limits it applies to 'the forms of justification' and for the constraints around 'the range of debate' in the public sphere.[10] What is remarkable, however, is the commonality between the liberal and the Habermasian perspectives of the public sphere, the latter with some significant modifications Benhabib considers viable for contemporary political discourse.[11]

The discursive public sphere attributed to Habermas rests squarely on *The Theory of Communicative Action* advanced since 1981. In it Habermas redefines the significance of modernity in relation to society, personality, and culture[12] in such a way that participation goes beyond the narrow sense of the political understood by the liberals, hence extends to all these levels mentioned above. Nor is it agonistic; "it is viewed democratically as the creation of procedures whereby those affected by general social norms and collective political decisions can have a say in their formulation, stipulation, and adoption." Further, as Benhabib highlights, it "does not stand under the constraint of neutrality" as was the case with the liberal model: "The public sphere comes into existence whenever and

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[8] S. Benhabib, "Models of Public Space: …," p. 83. Benhabib's representative of the liberal model is Bruce Ackerman, although she considers J. Rawls, R. Dworkin and J. Habermas as liberals among others.

[9] On feminism and positional justice, see below under section III.

[10] In contrast to the liberal paradigm, "on the model of practical discourse following from communicative ethics, no issues of debate and no conceptions of the good life are precluded from being voiced in the public arena of the liberal state." S. Benhabib, "Models of Public Space: …," in: *Situating the Self: …*, p. 97; see also: note 22, p. 116.

[11] On this point, see: Peter Uwe Hohendahl, "The Public Sphere: Models and Boundaries," in: Craig Calhoun (editor), *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992), pp. 99-108.

[12] Jürgen Habermas, *Theorie des kommunikativen Handelns*, Bd. 2 (Frankfurt a. M.: Suhrkamp, 1988), esp. pp. 212-228.

wherever all affected by general social and political norms of action engage in a practical discourse, evaluating their validity. In effect, there may be as many publics as there are controversial general debates about the validity of norms. Democratization in contemporary societies can be viewed as the increase and growth of the autonomous public sphere among participants."[13] This reading of the Habermasian discursive public sphere enables Benhabib to enlarge as well as to critique it, both of which involve certain challenges.

In enlarging the Habermasian discursive public sphere to include both norms and values, corresponding to justice and the good life, or public and private in the strict bourgeois sense, these substantive distinctions, Benhabib argues,[14] may be undermined, for otherwise the public sphere would not be egalitarian. But this conflation of the polarities is a consequence of Benhabib's reading: "Habermas' theory has no problem with making questions of good life part of the public debate … The important point, however, is that these questions cannot be settled in the same manner as questions of justice, since values are culture-bound and cannot be generalized."[15] This observation refers to a central difficulty in the Habermasian model of discursive public sphere; it concerns the question of rationality. In contrast to Benhabib, P. Hohendahl argues that since "an argumentative public discourse is constitutive" of the Habermasian public sphere, issues of good life in contrast to those of justice shall be resolved with "a weaker claim of rationality".[16] Would this then mean that there is an irrationally rational autonomous public sphere to address issues of values and good life, the irrationality being assigned to the historical provenance and legitimacy which none other than the adherents of the interest group are convinced of? This is a point of considerable significance especially when one acknowledges and retains the historic connections of the public sphere in contemporary public discourse, an issue to be elaborated in the following two sections but it also impinges on the critique of the Habermasian model advanced by Benhabib.

Feminist enlargement of the public sphere, as advocated by Benhabib (and other scholars), highlights two aspects implicit, but mostly unexplored, in Habermas' study of the bourgeois model, namely the role of

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13 S. Benhabib, "Models of Public Space: …," p. 87.
14 S. Benhabib, "Models of Public Space: …," pp. 88-89.
15 P. Hohendahl, "The Public Sphere…," p.105.
16 P. Hohendahl, "The Public Sphere…," p.107.

women in contrast to that of men, and the potential of co-operation over competition. Basing herself on studies of the bourgeois public sphere after Habermas' inquiry, N. Fraser observes that he "not only … idealizes the liberal public sphere but also … fails to examine other, non-liberal, non-bourgeois, competing public spheres. … Thus the view that women were excluded from the public sphere turns out to be ideological; it rests on a class- and gender-biased notion of publicity, one which accepts at face value the bourgeois public's claim to be the public."[17] In this regard Arendt's notion of the associational public sphere obtains a greater relevance: "It is not a space in any topographical or institutional sense… [D]iverse topographical locations become public spaces in that they become the sites of power, of common action coordinated through speech and persuasion."[18] This is the discursive public sphere envisioned by Benhabib once the legalistic and agonistic constraints are removed from the Habermasian model. However, there is still another significant aspec-to be mentioned, the private sphere.

The discursive public sphere (modeled after the Habermasian theory of communicative action and expanded to include the feminist egalitarian, associational, and non-topographical sense), subscribed to by Benhabib retains the polarity public/private not as corresponding to norm/value, but in a sense elevating privacy in contrast to intimacy to a space "that provides the self with a center, with a shelter, with a place in which to unfold capacities, dreams, and memories, to nurture the wounds of the ego, and to lend to it that depth of feeling that … allows it to "[rise] into sight from some darker ground." … [It] is an affirmation of "the home.""[19] Being-at-home is a condition *sine qua non* for a worldliness to participate in the civic life and public discourse: "In this sense, the primary moral and cultural purpose of the household under conditions of modernity is the development and flourishing of autonomous individualities."[20] This conceptualization of the public and private spheres is of great significance for contemporary pluralistic societies at least on two counts: first, it affirms the egalitarian, non-discriminative, access to public sphere to all as well as the rationality of public discourse sustained by ci-

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[17] Nancy Fraser, "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," in: Craig Calhoun (editor), *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992), pp. 115-116.

[18] S. Benhabib, "Models of Public Space: …," p. 78.

[19] S. Benhabib, *The reluctant modernism of Hanna Arendt*, p. 213

[20] Ibid. p. 214

tizens qua citizens: legitimacy of participation and validity of arguments are thus enshrined in the civic society without having recourse to any elitist selective constraints. Second, alongside with the public sphere exists, needs to exist, a private sphere which may be counted as the resource, refuge or the sustaining force of the public; this co-existence of both realms contributes to the enrichment and better functioning of the public. But what are the contents or constituents of these spheres? Or how do they interact, if such an interaction can be conceived? How is it to understand the interdependency between these two spheres? Before entering into these issues, there remains to explore an alternative, although not altogether different, conception of the public sphere.

B. Acknowledging the significance of Habermas' conceptualization and analysis of the bourgeois public sphere and its import for the contemporary societal conceptions, Charles Taylor proposes a larger picture which on various aspects corroborates with Benhabib's discursive model, but also differs in the moral grounding highlighting the secularist trends in Western societies. In contrasting Taylor's thesis with Benhabib's we shall better understand both the rationale as well as the challenge presented by the Quebec Charter of Values. Taylor advances the hypothesis[21] that "central to Western modernity is a new conception of the moral order of society. This was at first just an idea in the minds of some influential thinkers, but it later came to shape the social imaginary of large strata, and then eventually whole societies. … The mutation of this view of moral order into our social imaginary is the coming to be of certain social forms, which are those essentially characterizing Western modernity: the market economy, the public sphere, and the self-governing people, among others."[22] Despite defending plural public spheres, Taylor's thesis unlike Benhabib's offers a framework to capture not simply the contrast between "norms" and "values", "generalizable interests" and "culturally interpreted needs", issues of justice and questions of good life,[23] but also the fragmentation of society on multiple levels. This general framework, most

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[21] Charles Taylor, *Modern Social Imaginaries* (Durham & London: Duke University Press, 2007[4]). Most of the material appearing in this text is included in: Charles Taylor, *A Secular Age* (Cambridge, MS & London, UK: The Belknap Press of Harvard University Press, 2007), pp. 159-218.

[22] Charles Taylor, *Modern Social Imaginaries,* p. 2.

[23] See, S. Benhabib, "Models of Public Space: …," p. 88; to this point we shall come back in section III below.

recently affirmed in *A Secular Age*,[24] conceives the contemporary society as Post-Durkheimian,[25] and it is within this level the interdependence of public sphere with other autonomous social realms requires explanation and legitimation.

Briefly the general framework within which Taylor describes the emergence and transformation of the modern moral order -"the order of mutual benefit,"[26] -thanks to social imaginaries is complex, multi-faceted and interlinked. The social imaginaries at work are tied to social forms, as mentioned above, economics, public sphere and democratic self-rule. Their transformation in extent and intensity shall be conceived as paleo-, neo- and post-Durkheimian idealtypes/forms, they correspond politically to the *"ancien régime"* ("the pre-Revolutionary French Monarchy"), "the nineteenth century American Republic"[27] and the contemporary Western democracies; chronologically to the period before 1800, between 1800 and 1950/1960, from 1960 to the present; religiously to Catholicism, Protestantism and the "vicarious religion;"[28] and psychologically to enchantment, mobilization and disenchantment. All these are approximations, and overlapping is unavoidable. From a sociological perspective, one might speak of a gradual loosening up of the solidarity expressed initially for example by the tight interrelationship between religion and politics[29] (e.g., to say French is to mean Catholic); it becomes eventually in the American scene a solidarity of multiple Christian confessions under one

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[24] See, Part IV: Narratives of Secularization, pp. 423-535.

[25] "Paleo-, neo-, post-Durkheimian describe ideal types. My claim is not that any of these provides the total description, but that our history has moved through these dispensations, and that the latter has come to colour more and more our age." Ch. Taylor, *A Secular Age*, p. 487

[26] Ch. Taylor, *Modern Social Imaginaries*, p. 71, & passim*; A Secular Age*, p. 178.

[27] Ch. Taylor, *A Secular Age*, p. 459.

[28] Taylor borrows the term from Grace Davie, *Europe: The Exceptional Case* (London: Darton, Longman & Todd, 2002), p. 46, to indicate "the relationship of people to a church, from which they stand at a certain distance, but which they nevertheless in some sense cherish; which they want to be there, partly as a holder of ancestral memory, partly as a resource against some future need (e.g., their need for a rite of passage, especially a funeral); or as a source of comfort and orientation in the face of some collective disaster." Ch. Taylor, *A Secular Age*, p. 522.

[29]"The "paleo" phase corresponds to a situation in which a sense of the ontic dependence of the state on God and higher times is still alive, even though it may be weakened by disenchantment and an instrumental spirit; whereas in "neo" societies, God is present because it is his Design around which society is organized." Ch. Taylor, *A Secular Age*, p. 455.

nation, but in the contemporary Western societies it turns out to be not simply "believing without belonging" (as far as religion is concerned),[30] but also a direct access society of 'overlapping consensus' among the sovereign people: "Our cohesion depends on a political ethic, democracy and human rights, basically drawn from the Modern Moral Order, to which different faith and non-faith communities subscribe, each for their own divergent reason. We live in a world of "overlapping consensus.""[31]

A crucial feature of our contemporary mutual benefit society is secularism which in Taylor's framework not only colors but also determines all its other constituents; it eventually creates tension leading to fragilization of the social. In order to capture the full import of Taylor's framework, it is necessary to clarify the sense in which secularity is employed here. In an article published as follow-up to *A Secular Age*, he points out that both the structure and sense of secularity have changed radically in the course of the idealtypes-periods traversed by Western society: "First, it [the secular as a category] was one term of a dyad. The secular had to do with the "century"- that is, with profane time- and it was contrasted with what related to the eternal, or to sacred time."[32] Within this dyad there existed different senses corresponding to places, persons, etc. but also to the vicarious asymmetrical relation between the polarity: sacred and profane. Since the seventeenth century, however, there exists a new modality wherein a conception of the social was simply and thoroughly secular; all reference whatsoever to the sacred made little sense; for it would be *non-*

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[30] Taylor's point is to highlight the fragilization of society in the modern West; hence the distinction between strong and weak senses of religious faith, and the weakening of connections between religious and political identities: "This strong sense, I define, by a double criterion: the belief in transcendent reality, on one hand, and the connected aspiration to a transformation which goes beyond ordinary human flourishing on the other. … There is unquestionably a tension in our time, which is the site of a battle between neo- and post-Durkheimian construals of our condition, between different forms of religion or spirituality, those which place authority first, and hence are suspicious and hostile of contemporary modes of quest; and those which are embarked on these, and may or may not in the course of searching come to recognize one or another form of authority." Ch. Taylor, *A Secular Age*, p. 510; see also, p. 518f.

[31] Ch. Taylor, *A Secular Age*, p. 532. The expression "overlapping consensus" refers to the liberal model of public sphere: John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).

[32] Charles Taylor, "What does secularism mean?" in: *Dilemmas and Connections: Selected Essays* (Cambridge, MS & London, UK: The Belknap Press of Harvard University Press, 2011), pp. 303-325, here p. 304. See also: Ch. Taylor, *A Secular Age*, p. 54-61.

sense. In other words, the contrast between higher time and profane time ceased to exist; one term of the dyad was removed from the social imaginary. Conceptually one might still speak of transcendent and immanent corresponding to sacred and profane, but the former terms of the dyads have no referential content at all; nor any meaning in contrast to the latter: "The new understanding of the secular … builds on this separation. It affirms, in effect, that the "lower" –immanent or secular- order is all that there is and that the higher – or transcendent – is a human invention."[33]

The consequences of this non-dyadic secular conception constitute the essential features of contemporary social imaginary,[34] especially those of the public sphere. In Taylor's description, following J. Habermas and M. Warner, the modern public sphere that emerged since the eighteenth century shall be better understood as "a metatopical common space," with an "independent identity from the political," and a "force as a benchmark of legitimacy."[35] Both these features touch all aspects already discussed under the discursive public sphere above: communication, dialogue, reflexivity, rationality, proximity, etc. But what is new and radical in the modern and contemporary social imaginary underpinning the public sphere is secularity: "…, the public sphere is an association that is constituted by nothing outside of the common action we carry out in it: coming to a common mind, where possible, through the exchange of ideas. Its existence as an association is just our acting together in this way. This common action is not made possible by a framework that needs to be established in some action-transcendent dimension, either by an act of God or in a Great Chain or by a law that comes down to us since time out of mind.

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[33] Ch. Taylor, "What does secularism mean?" p. 305. Larry Siedentop (*Inventing the Individual: The Origins of Western Liberalism*, Allen Lane, 2014) would argue that secularism is a Christian invention which emerges from the duality of spiritual and temporal realms; so also is sovereignty, "equal subjugation under law" extracted from Christian equal liberty.

[34] "By social imaginary, I mean something much broader and deeper than the intellectual schemes people may entertain when they think about social reality in a disengaged mode. I am thinking, rather, of the ways people imagine their social existence, how they fit together with others, how things go on between them and their fellows, the expectations that are normally met, and the deeper normative notions and images that underlie these expectations." Ch. Taylor, *Modern Social Imaginaries*, p. 23. This is evidently a complex concept, including implicit, explicit, normative, practical, often non-formalized notions and images; it may be substituted by the term framework.

[35] Ch. Taylor, *Modern Social Imaginaries*, p. 86; chapter 6: "Public sphere", pp. 83-99; see also: Ch. Taylor, *A Secular Age*, pp. 185-196.

This is what makes it radically secular."[36] "An extrapolitical, secular, metatopical space: this is what the public sphere was and is."[37]

Secularity, however, permeates all the other constituents of the contemporary imaginary; the modality in which it appears in those realms is similar but different. For example, in contrast to the economic realm, "[b]oth … the public sphere and the self-ruling "people" … imagine us as collective agencies."[38] Related to this is also the sense of a direct access-society, characterized by the striking consciousness as an individual, a democratic consciousness challenging hierarchy, affirming proximity and immediacy: "Modern individualism, as a moral idea, does not mean ceasing to belong at all – that is the individualism of anomie and breakdown – but imagining oneself as belonging to ever wider and more impersonal entities; the state, the movement, the community of humankind. This is the change that has been described from another angle as the shift from "network" or "relational identities" to "categorical ones.""[39]

In reference to these two conceptions of the public sphere, how does the Quebec Charter of Values fair? How, why, religious convictions and/or their outward expressions fall under the surveillance of the state? Is there perhaps a social imaginary to blame, defend, suppress? Are there multiple social imaginaries competing for dominance, discarding dialogue, rational discourse? But before engaging with these issues, let us examine the proposed Quebec Charter of Values.

II. The Quebec Charter of Values

The Quebec Charter of Values announced by the minister responsible for Democratic Institutions and Active Citizenship,[40] and the Bill 60

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[36] Ch. Taylor, *Modern Social Imaginaries*, p. 94; Ch. Taylor, *A Secular Age*, p. 192.

[37] Ch. Taylor, *Modern Social Imaginaries*, p. 99; Ch. Taylor, *A Secular Age*, p. 196.

[38] Ch. Taylor, *Modern Social Imaginaries*, p. 76; Ch. Taylor, *A Secular Age*, p. 181.

[39] Ch. Taylor, *Modern Social Imaginaries*, p. 160; Ch. Taylor, *A Secular Age*, p. 211. For the terminology, Taylor refers to: Craig Calhoun, "Nationalism and Ethnicity," American Review of Sociology 9 (1993) 230. One might even speak of simultaneous multiple identities, as Amaratya Sen does; see, A. Sen, *Identity and Violence* (New York & London: W. W. Norton & Company, 2006), pp. 19-39 & passim.

[40] See: http://www.nosvaleurs.gouv.qc.ca/fr = http://www.nosvaleurs.gouv.qc.ca/en; this document lists the concrete provisions the government want to implement; it also provides the rationale for this initiative, even adds a short video message by the minister.

tabled in the regional parliament on 7th Nov. 2013,[41] constitute the latest attempt to implement fully the politics of *laïcité* adopted by the PQ government since half a century. In order to comprehend the rationale advanced by the government and to analyze it critically, it is necessary not to ignore at least the significant stages of this socio-political reshaping of Quebec. Two of these seem to be crucial: the Quiet Revolution (*révolution tranquille*) and reasonable accommodation (*accommodement raisonnable*). Whereas the former refers generally to a continuous but decisive separation of the state from the Church especially since the 1960s, the latter signifies the efforts introduced by the secular state to accommodate the specific religious and cultural concerns of the citizens in living their religious commitment and traditional values without infringing the civic virtues upheld by the state. Without entering into a detailed discussion of the processes connected with these issues, one may obtain a fairly good idea of the modernization that Quebec underwent by concentrating on two interrelated and multilayered topics: Catholicism and immigration, both of which constitute the core elements of the Quiet Revolution[42] and reasonable accommodation[43] respectively. Further, they do play a significant role, though in different ways, in the current discussion of the QCV.

A. In explaining and interpreting the Quiet Revolution of Quebec, historians have often stuck to two models: the orthodox liberal and the revisionist.[44] Whereas the first reading highlights the separation between

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[41] See: http://globalnews.ca/news/952243/pq-values-charter-to-be-tabled-thursday/

[42] For the following section on Quiet Revolution, I follow the interpretation offered in: Michael Gauvreau, *The Catholic Origins of Quebec's Quiet Revolution, 1931-1970* (Montreal & Kingston: McGill-Queen's University Press, 2005). For a brief, but personal discussion of the Quiet Revolution, see: Marc Lesage et Francine Tardif (s. la d.), *Trente ans de Révolution tranquille: entre le je et le nous itinéraires et mouvements*, Paris : Les Éditions Bellarmin, 1989. More detailed and academic studies are listed in Gauvreau, op. cit.

[43] For a brief discussion on the sense of the term, see: Yolande Geadah, Accommodements raisonnables (VLB Éditeur, Montréal, 2007). A report on the issue of accommodation was submitted on 22nd May 2008 by the commission appointed by the government under Premier Jean Charest. See: http://www.accommodements-quebec.ca/documentation/rapports/rapport-final-integral-en.pdf The issue shall be addressed briefly below.

[44] The orthodox liberal version "maintains that after 1945 Quebecers were confronted by a conflict between, on one side, the increasingly rapid modernization of the province under the impact of industrial expansion and the rise of mass culture, and on the other, institutions such as the Roman Catholic Church … as guardians of values deemed traditional or anti-modern. … Catholic values constituted one of the central pillars of the conser-

church and state ascribing the inception of modernity to a minority of liberal intellectuals, the second downplays the conservative Catholic ideology and argues for a liberal capitalist modern Quebec even from mid-19th century. However, common to both interpretations are: a narrative privileging economic factors and political actors on the one hand, and the account of Catholic values as superficial. In contrast to these dominant narratives, M. Gauvreau proposes a third version placing emphasis on the common people and the Catholic Action movement, and argues: "Read in a cultural sense, and through a range of social experience outside the immediate purview of political elites, the Quiet Revolution was not, as both "orthodox liberals" and "revisionists" have cast it, about the evisceration of Catholicism from Quebec society and state. Rather, it was an attempt through a variety of institutional strategies to make Catholicism coterminous with aspects of modernity, and in so doing, to anchor it more firmly in Quebec's public culture."[45] Two factors central to this Catholic Action were: unconditional emphasis on democracy and critique of elitist religious conformity.

Gauvreau's perspective of the Quiet Revolution[46] compels us not to read the modernization of Quebec exclusively in political and economic

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vative political regime of Maurice Duplessis. Assailed by newer liberal and nationalist ideologies … Catholicism had entered into irreversible decline by the 1950s. By 1960 … Catholicism had become increasingly unpopular with a rising middle class…" M. Gauvreau, *The Catholic Origins of Quebec's Quiet Revolution*, p. 5. The revisionist version "locates the roots of Quebec's modern values in the nineteenth century, rather than in a sudden discovery by intellectuals of post-war social realities." Ibid.

[45] M. Gauvreau, *The Catholic Origins of Quebec's Quiet Revolution*, pp. 12-13.

[46] This may be briefly stated as follows: The Quiet Revolution began with the arrival of Catholic Action movement in 1930; it was embraced by the working class, middle class, etc., supported by the Catholic hierarchy in order to enhance social cohesion. This social Catholicism was anti-clerical, but not ant-religious, activist, feminist, emphasized the values of family and supported parallel social arrangements. But since1950s it was outmaneuvered by the liberal political agenda represented by P. Trudeau and G. Pelletier whose critique of religion identified institutional Church with popular piety, symbolized by the government of M. Duplessis. This intellectualist, *citélibriste*, agenda discarded the more inclusivist outlook of social Catholicism, advocated a superficial religiosity, considered Catholicism as one of the religions of the land, and understood the Quiet Revolution as the late secularization of Quebec since the death of M. Duplessis, although in reality such a social consensus existed since 1840s. Hence, a non-reductive understanding of the Quiet Revolution would recognize Catholicism as "a highly mutable system of social regulation and cultural authority". M. Gauvreau, *The Catholic Origins of Quebec's Quiet Revolution*, p. 358; for the whole argument, see: ibid., pp. 353-359.

terms, but primarily in social and cultural terms represented by a "diversity of currents within Catholicism which explodes the central myth of the Quiet Revolution: the idea that, first, Catholicism was purely the expression of elites, either clerical or political, second, was thoroughly invested with nationalist agendas, and third, in its manifestation as popular religion existed only as a folkloric backdrop adding some local colour to the more "rational" concerns of francophone elites."[47]

Whatever may the reading of the Quebec modernity be, one obvious social factor was (and still is) an often implicit, occasionally expressed outrageously, *discontentment* with the immigrant[48] or ethnocultural *minority* population, recently addressed by a liberal Quebec government sponsored study: The *Bouchard-Taylor Report*.[49] The report was based on "three intersecting themes: a) interculturalism; b) open secularism; and c) harmonization practices. For each of these themes we have sought to find balanced positions. … [And] it avoids radical solutions … it is in keeping with the procedures adopted by public and private institutions and agencies in Quebec."[50] Further, it takes into account that Quebec as a 'small minority' nation should not be expected to provide "the assurance of imperial nations."[51] The *minority status* of the recent immigrants in Quebec and the *memory* of the French-Canadian Quebecers minority status as well as their continuing *factual minority situation* in North America are called upon to substantiate the legitimacy of the Quebec society's se-

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[47] M. Gauvreau, *The Catholic Origins of Quebec's Quiet Revolution*, p. 358.

[48] For the discontentment referred to here, see: *The Bouchard-Taylor Report*: "Section II: A crisis of perception." The 'discontentment with the immigrant' requires further clarification, for it is complex, and is based on a multitude of reasons traced often back to the changes in the Canadian immigration policies since the 1960s, multiculturalism introduced since 1971 (the Act was passed only in 1988), and the promotion of a pluralistic society. For an informed discussion of these topics which this essay does not engage in, see: Micheline Milot, "Modus Co-vivendi: Religious Diversity in Canada" in: Paul Bramadat and Matthias Koenig (eds.), *International Migration and the Governance of Religious Diversity* (Kingston: Queen's School of Policy Studies, 2009), pp. 105-129; Will Kymlicka, *Multicultural Citizenship* (Oxford: Clarendon Press, 1995), pp. 10-33; *Multicultural Odysseys* (Oxford: Oxford University Press, 2007), pp. 3-25.

[49] For the full report, see: "Building the Future. A Time for Reconciliation," www.accommodements.qc.ca. Also available in: *Mission* XV (2008) pp. 22-109, with explanatory and critical essays. This article does not engage in a critique of *The Bouchard-Taylor Report*, but highlights salient points for a better understanding of the QCV.

[50] *The Bouchard-Taylor Report*: "Conclusion"; *Mission* XV (2008) p. 107.

[51] Ibid; *Mission* XV (2008) p. 108.

cular values: "freedom of conscience, the equality of citizens, the recipro-
cal autonomy of Church and the State, and the neutrality of the state."[52]
Whereas the greater onus of accommodation lies with 'the majority eth-
nocultural group', the main thrust of the report is on "the citizen route
and concerted adjustment."[53] Why is there, then, such a great furor against
the QCV which seems to implement the report's recommendations? We
shall return to this issue after presenting the latest available version of
QCV.

B. The current version of the QCV is the Bill 60, entitled: *Charter affirm-
ing the values of State secularism and religious neutrality and of equality
between women and men, and providing a framework for accommodation
requests*.[54] Although the Bill does not affirm it, it is obviously a continua-
tion of the rationale presented in *The Bouchard-Taylor Report* discussed
above; however, the Bill addresses a specific area, namely *manifestation* of
religiosity in the public sphere especially inculpating the *visible* (also
thanks to religious attire) minority of recent immigrants. In other words,
the issue under discussion is how religious mores and manifestations vio-
late the secular core of Quebec identity. Set in this larger context, the Bill
shall be seen as an attempt to *defend the civic values* of the state: secular-
ism, religious neutrality, human equality, primacy of French language and

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[52] Ibid; *Mission* XV (2008) p. 108.

[53] *The Bouchard-Taylor Report*: Section V.A "Reasonable accommodation and con-
certed adjustment"; *Mission* XV (2008) pp. 67f. This essay does not claim that QCV endors-
es or puts into action the proposals made by the Bouchard-Taylor Report; Taylor himself
has denounced the QCV for risking solidarity (*my sincere gratitude to colleague Dr. R.
Shukla for pointing this out*). It is, however, insinuated in this essay that one may think of a
continuation between QCV and the Report. This is corroborated by Madame Pauline
Marois' comments (a calculated political strategy?) during the first leaders' debate (on
March 20, 2014) in preparation for the Quebec election of April 7, 2014. See: http://o.cana-
da.com/news/live-quebec-election-leaders-debate/;
http://fullcomment.nationalpost.com/2014/03/19/graeme-hamilton-pq-ups-the-values-char-
ter-ante-as-students-would-face-burka-ban/

[54] Or in French: *Charte affirmant les valeurs de laïcité et de neutralité religieuse de l'É-
tat ainsi que d'égalité entre les femmes et les hommes et encadrant les demandes d'accom-
modement*. See: http://www.institutions-democratiques.gouv.qc.ca/laicite-identite/charte-
valeurs.htm Despite this long title, the contents remain almost the same; and this essay con-
tinues to refer to the charter in all its modifications under the acronym: QCV or Bill60/
QCV. Since the PQ lost the elections in April 2014, the bill is dead for now.

Quebec's cultural heritage, as well as to provide concrete guidelines in implementing reasonable accommodation. Two provisions, however, stand out: prohibition of *overt* manifestation of religious symbols (no. 5) and the obligation to *uncover* one's face (nos. 6&7). All this is required (besides other reasons) to safeguard religious neutrality in the public sphere.

Despite grounding these provisions on the 'sound' rationale[55] of *The Bouchard-Taylor Report*, the Bill seems to be misguided especially for the misprision of the public sphere whose *agonistic* nature it ignores. However the irony resides in the fact that the current minority PQ regime was also the result of student protests[56] which helped overthrow the Charest liberal government. Misprision of the public sphere is rampant in the Bill, and is clearly manifest in sections 7 (nos. 27 to 31) and 11 (nos. 38 to 42). In the former case, the intent "to facilitate social cohesion and the integration of children without regard to social or ethnic origin or religious affiliation" (no. 30), however admirable, remains an ideal, ideology and ill-prepares the children to face reality. Even the imaginary contrasts as described in *Alice in Wonderland* seem to be forbidden to ensure the children with a 'purist secular' environment. This agenda deprives the children of the constitutive diversity of the world they live in; the *worldliness* (to speak with H. Arendt) is forsaken, let alone the joy of secularism; the inevitable result would be 'objective illusion',[57] that is incapacity to critically engage with the reality. Further, the misprision consists in ignoring the ethnoconfessional[58] identity of immigrants and of the host society. What belongs wi-

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[55] For a critique of The Bouchard-Taylor Report, see: Guy Jobin, "Intégration et intégrité. Les religions et la laïcité selon le Rapport Bouchard-Taylor" in: *Mission* 15 (2008) 209-225; to some of the points raised here we shall come back below in section III.

[56] See: http://en.cyclopaedia.net/wiki/Quebec-student-protests-2012

[57] This is a concept that Amartya Sen deploys admirably in criticizing the poverty and its consequences; see his discussion in: *The Idea of Justice* (Cambridge, MS: The Belknap Press of Harvard University Press, 2009), pp. 155-173; & 284-286.

[58] The concept is introduced as follows: "Aujourd'hui, la terminologie sociale, renforcé par le paradigme moderniste qui néglige ou élude la vie religieuse, tend plus que jamais à décrire les réalités culturelles de l'expérience immigrante en termes de groupes ethniques. Or, les membres de mêmes groupes ethniques peuvent être affilies à des religions différentes et parfois mêmes concurrentes de sort que l'on est en mesure de voir surgir plusieurs sous-groupes communautaires. Il conviendrait donc de ne pas toujours parler en termes ethniques, posture qui donne à penser à une sociologie des groupes ethnoconfessionnels. De cette façon on pourra sans doute saisir mieux les réalités communautaires en même temps que sonder la complexité des différences culturelles qui marque chacune des grandes communautés de foi, comme les musulmans et les bouddhistes, une diversité qui caractéri-

thin or together (in the lives of most immigrants) is conceptually separated, and forced on the social imaginary which eventually decenters religion, debilitates social cohesion, fails in understanding the gradual and inevitable reshaping of identities.

In the latter case, with regard to human rights and freedoms, the issue is a different one, although not unrelated to the former. Laudable as it may be the emphasis on Quebec values and the upholding of its cultural heritage, insertion of them into the Charter of human rights and freedoms raises at least two difficulties -besides the immediate issue of participation rights[59]-: first, questions regarding its nature and second, the legitimacy issue. The legitimacy issue concerns the question if amendments as proposed in the Bill 60/QCV would violate fundamental freedoms guaranteed by the Canadian Charter of Rights and Freedoms, and if Quebec as a nation is entitled to make these changes *alone* by itself whether by a vote in the regional parliament or by a plebiscite. This, being a constitutional issue, would soon be definitively clarified once/if the Bill goes through the parliament. The first difficulty is broader and challenges the conception of human rights itself. There are at least two important conceptions on human rights (represented by A. Sen and J. Searle) which touch on its character as rights and on its reach as universal rights. Both would have significant repercussions in the context of Bill 60.

According to Sen, "human rights are ethical claims constitutively linked with the importance of human freedom, and the robustness of an argument that a particular claim can be seen as a human right has to be assessed through the scrutiny of public reasoning, involving open impartiality."[60] The key issues here are three: first, human rights claims are ethical, not legal claims, and it would be detrimental to reduce them to the legal status, despite a legal way to redress the damage is right and beneficial both to the individual and to the society. Second, human rights as affirmations of certain freedoms do require *public scrutiny* (not any higher time based legitimation). Third, respecting the freedom aspect involves

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se différemment les communautés de fois d'une société d'accueil à l'autre" Frédéric Castel, *La dynamique de l'équation ethnoconfessionnelle dans l'évolution récente du paysage religieux québécois. Les cas du façonnement des communautés bouddhistes et musulmanes (de 1941 à aujourd'hui)*, thèse de doctorat, Montréal, Département de sciences des religions, Université du Québec à Montréal 2010, p. 53; quoted from: Louis Rousseau (éd.), *Le Québec après Bouchard-Taylor* (Québec : Presses de l'Université du Québec, 2012), p. 23.

59 See: http://www.lawnow.org/human-rights-quebecs-charter-of-values/

60 Amartya Sen, *The Idea of Justice,* pp. 365-6.

both the dimension of opportunity and process[61]. What is salient in Sen's perspective is a skepticism regarding framing the human rights claim as a legal right as well as its universal sustainability which would require positional objectivity, trans-positional coherence as well as the capacity to understand subjective probability[62]. Hence, it is better to conceive human rights as ethical claims, which would be unacceptable from the perspective of Bill 60/QCV, for it prioritizes the legal way.

In contrast, J. Searle wants us to understand human rights as status functions: "deontic powers deriving from collectively recognized statuses"[63]. Here, the emphasis is on the notion 'collective,' that is, intentionality-relative, which makes them cultural; they can hence be harmonized despite inconsistencies of formulation and expression. This is what Searle does. For him, the logical form of rights is correlative, that is, rights imply obligations. Free speech, e. g, obliges the government not to interfere; but all obligations may not imply a right. In the case of human rights the *status* we enjoy is 'being a human being,' however it is justified, by invoking God or the Natural Law, or "simply by a set of biological facts that constitute being a member of our species."[64] And in its basic form, rights tied with obligations are negative: the right is conceded thanks to the recognition of the doer's status, and the obligated person is expected not to negate that status. Human rights are hence *negative* rights, not positive rights which are harder to justify. If Bill 60 accepts this perspective[65], the government may be freed from multiple sets of liabilities it has taken upon itself; but it will be a political suicide.

Whereas Sen's perspective attaches priority to ethics over law, favors positional objectivity over universality, Searle's view bases equality on a universal grounding of being human. Both, however, exacerbate the issue of application: a laissez-faire approach versus legislation seems to be the result, when it comes to manifestations of religiosity in the public sphere. Is there a 'consensus on human rights' possible? And perhaps applicable

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[61] For a detailed discussion of this issue, see: A. Sen, The Idea of Justice, pp. 355-387.

[62] Amartya Sen, *Rationality and Freedom* (Cambridge, MS: The Belknap Press of Harvard University Press, 2002), pp. 463-483.

[63] John Searle, *Making the Social World* (Oxford: Oxford University Press, 2010), p. 176; for the detailed discussion, see: pp. 174-198.

[64] J. Searle, *Making the Social World*, p. 182.

[65] "…I do not believe that everyone has a universal right to adequate housing, but I think that everyone has a right to attempt to get adequate housing for themselves and their families. And that actually is a meaningful right because it means governments are under obligation not to interfere with that right." Ibid, p. 186.

also to the issues dealt with Bill 60/QCV? Charles Taylor[66] argues that a threefold distinction facilitates consensus: norms, legal forms and background justification. Consensus on norms would not entail consensus on legal forms (which shall be left to individual nations/states), or on underlying beliefs (dependent on moral order/world views/religions: e.g. values such as human dignity, pursuit of well-being). Further, the common language of rights may not highlight the different bases (e.g. exaltation of human agency in the West; communalism in China, *ahimsa* in Thailand); nor would it subscribe to common democratic forms (community control of resources, instead of national authority), but support a generalizable understanding. In the West, "[h]uman rights define norms of respect for human beings, more radical and more exigent than have ever existed in the past. They offer in principle greater freedom, greater security from violence, from arbitrary treatment, from discrimination and oppression, than humans have enjoyed at least in most major civilizations in history. In a sense they involve taking the exceptional treatment accorded to privileged people in the past, and extending it to everyone."[67] Besides immunities and freedoms, the Western conception places equality as basic to democracy; other democracies also do this, but their foundations are different, not the Western consciousness of historical achievement; hence the invocation of equality on Western grounds may implicitly challenge the Human Rights of other democracies. A case in point is the Shari'a law. The difference consists in that the Shari'a laws of (excessive) punishment are not set in the context of modern egalitarian humanism, but in a cosmic vision of sacred/profane and thereby demands the abolition of evil by punishing the evil-doer. Contemptuous denunciation of this view places the West in a superior position, ignoring viable alternatives[68].

Both a restrictive and a broadening approach to Bill 60/QCV enable one, thus, to sense the impasse built therein, despite admirable motiva-

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[66] Charles Taylor, "Conditions of an Unforced Consensus on Human Rights," in: *Dilemmas and Connections* (Cambridge, MS: The Belknap Press of Harvard University Press, 2011), pp. 105-123.

[67] Ibid., p. 116.

[68] Ibid., pp. 120ff. Is empathy, then, an antidote? Jeremy Rifkin thinks so; for empathy is: "The ability to recognize oneself in the other and the other in oneself is a deeply democratizing experience. Empathy is the soul of democracy. It is an acknowledgment that each life is unique, unalienable, and deserving of equal consideration in the public square. The evolution of empathy and the evolution of democracy have gone hand in hand throughout history. The more empathic the culture, the more democratic its values and governing institutions. "*The Empathic Civilization* (New York: Jeremy P. Tarcher/Penguin, 2009), p.161.

tions of ensuring equality to all and of promoting social cohesion. Is it possible at all to think of religion in the public sphere?

III Spaces of contention and association

It has been hitherto argued that the contemporary conception of public sphere in the Western democracies, exemplified by Canada, is multifarious. However, there is a significant agreement with regard to the commonalities emphasized by various perspectives, represented for example by Ch. Taylor and S. Benhabib. Despite their respective emphases on secularity and equal accessibility, the public spheres of contemporary Western democracies are metatopical, independent, self-legitimizing, and consequently categorical, dynamic, amorphous and agonistic spaces of citizen involvement. They rest on *resources* which might be considered pertaining to public as well as private spheres, a conflation represented by culture and religion. If this imaginary of the contemporary Western public sphere is correct, it would well be expressed as a *family resemblance concept* (advanced by Wittgenstein on a different level),[69] highlighting the commonalities so that not a single representation of it is identical with another, but they all have some common elements. And the commonality exists "in virtue of features that are shared only by sub-sets of their instances in a 'criss-crossing' or 'overlapping manner' manner"[70]. In the social imaginary, public sphere is not so much interpreted but rather interacted thanks to performances valued by the citizenry which ensure that differences and commonalities co-exist yielding the characteristics of a family resemblance concept.

Hence, the above stated question - Is it possible at all to think of religion in the public sphere? – may have to be reformulated: Is it possible to think of religion as concurring with some of the common elements shared in/by the public spheres? In other words, representing religion in any public sphere will have to have legitimacy arising from the commonalities shared by the democratic public spheres. More concretely, does representation of religion in the public sphere infringe democratic rights and va-

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[69] For a good discussion on family resemblance concepts, see: Michael Forster, "Wittgenstein on family resemblance concepts," in: Arif Ahmed (ed.), *Wittgenstein's Philosophical Investigations. A Critical Guide* (Cambridge: Cambridge Uni. Press, 2010), pp. 66-87.

[70] M. Forster, "Wittgenstein on family resemblance concepts," p. 67.

lues? Does it boost the public good? Or does it deprive someone of her minimal freedom to be and to do what she values? Do the capabilities of a person get recognized, enlarged or are they suppressed in the public sphere? This issue of the public good and individual freedoms is also intimately tied with obligations as well as powers of a democratic regime vis-à-vis the citizenry. It is in this latter context that the Bill 60/QCV assumes a particular significance; for it has been formulated and proposed by a government in power, it did not emerge as a result of public referendum or citizen demand. Both these issues, namely *the sovereignty of the good life* and *the sovereignty of the people* provide us with adequate criteria to examine the relevance and non-relevance of religion in the public sphere.

A. In her innovative study on luck and ethics in Greek thought, Martha Nussbaum argues that the fragility of goodness, in contrast to its sole grounding on rationality, was a matter of great concern to the Greeks[71]. Major conceptions of the good represented by Plato and Aristotle are evaluated on how or how far fragility constitutes an integral aspect of the good. Since the contemporary Western democracies affirm to a great extent the Platonic-Aristotelian theoretical conceptions of the good in terms of *human fulfillment*, it would be useful to ask if these conceptions of the good highlight rationality alone; if or/and how the fragility of goodness is integrated in the political perceptions of the common good[72]. For such perceptions do underlie the proposals advanced in the Bill 60/QCV.

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[71] There existed "a picture of excellence that is shown to us in the traditional image of *ar te* as plant: a kind of human worth that is inseparable from vulnerability, an excellence that is in its nature other-related and social, a rationality whose nature is *not* to attempt to seize, hold, trap, and control, in whose values openness, receptivity, and wonder play an important part." Martha Nussbaum, *The fragility of goodness. Luck and Ethics in Greek Tragedy and Philosophy* (Cambridge: Cambridge Uni. Press, (1986) 2001) p. 20 (italics in the original). In the preface (pp. xiii-xxxix) to this revised edition, Nussbaum indicates how her thought has changed since "my engagement with Stoic ethics" (p. xviii); some of those aspects will be mentioned in this essay.

[72] "*Fragility* [the book] was not focused on political questions, although the role of luck in our ability to act as citizens was among its themes. But the ethical themes of the work do have significant implications for political thought. In particular the Aristotelian view of the human being as a being both capable and vulnerable, in need of a rich plurality of life-activities, (a conception he takes over, in many ways, from the tragic poets), has striking resonance for contemporary thinking about welfare and development." M. Nuss-

There are, in other words, at least three issues to be distinguished to clarify the relevance of religion in the public sphere. First, what exactly does religion contribute to, or deprive the society of, or hinder it from acquiring the public good? In order to answer these questions, it will be necessary to posit at least a conception of the good prevalent in contemporary Western democratic societies. Second, it needs to be clarified if the supposedly different conceptions of the good promoted and defended by different religions play any role in contemporary Western public spheres. More concretely, do public policies have to reckon with religion as a source of coherence or conflict? Third, if the implicitly pluralist and multicultural social context of contemporary human flourishing thwarts the hitherto cherished norms and values of society. What would it then mean to comply with the law? These questions would have different and much differentiated answers, if, following Nussbaum, the fragility of goodness is placed at the center. It would further indicate, hopefully, the relevance of religion in the public sphere, as well as the pragmatic role played by the democratic state institutions.

Highlighting the contrast between the Platonic and Aristotelian conceptions of the good, Nussbaum argues that Aristotle's emphasis on the *appearances* (*phainomena*)[73] takes seriously into consideration the fragility of goodness. For the goodness defended here is all-too-human, immanent, contingent, ordinary, realizable, and animally rational.[74] Besides

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baum, *The fragility of goodness*, p. xvii. It is the political implications we are concerned about in this section.

[73] Aristotle's *phainomena* must be understood as 'the data of [relevant] human experience,' (p.245) beliefs and interpretations taken as a unity, and treated with consistency. The distinctions between science and metaphysics, hard fact and theory are unacceptable here. Relevance refers to the congruity of the people holding the facts as well as correspondence to human lives and acts – 'to the *pragmata*, broadly construed' (p. 247). Consistency refers to the acceptance of the Principle of Non-Contradiction; if it lacks *apaideusia* may emerge, which is the lack of "'intellectual habituation' – the sensitive awareness, produced by education and experience, of the fundamental role this principle plays in all our practices, all our discourse" (p. 252). For the detailed discussion on *phainomena* in Aristotle, see: M. Nussbaum, *The fragility of goodness*, pp. 240-263.

[74] Aristotle's emphasis on the ordinary as well as his dissent with Plato comes to the fore with respect to the explanation of rational action. Rational actions are for Aristotle, in contrast to Plato, not exclusively "products of intellectual activity" (p. 272); they are intentional (that is, object-directed and responsive to the agent's world view), and selective, which make them correspond to common animal action. Aristotle acknowledges "the animal basis for certain ethical attitudes and practices that are central in the development of

rationality, the crucial issue here is responsibility: "Without being-affec-
ted … there will be cleverness and even contemplative wisdom, but not,
for example, gentleness, or courage, or love – praiseworthy elements of the
person without which a human life would not be a good one."[75] Further,
"good deliberation is not scientific," "is not a *techn* or *epistem*," but is
"anthropocentric, concerning itself with the human good rather than with
the good *simpliciter*"[76] all of which increases the vulnerability of the good
life. "Good judgment," for Aristotle, "supplies both a superior concrete-
ness and a superior responsiveness or flexibility."[77] Aristotelian practical
wisdom[78] which guides the human agent refuses hence "the progress
offered by commensurability [of values], universality [of laws], and intel-
lectualism [devoid of passion]" and affirms "deliberation … well suited to
the high evaluation of fragile constituents of human life."[79] This is in stark
contrast with the Platonic conception where the human and immanent
goodness is discarded for the eternal unchangeable supreme good.

In other words, one of the central features of the Platonic political
thought consists in securing the public good against any possible uncer-
tainty, whereas the Aristotelian conception relies on this very fragility.
"It is … Aristotle's view that certain central human values are available
and valuable only within a context of risk and material limitation. … [Thus]

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an animal creature towards deliberate choice" (p.285). For a detailed discussion, see: M.
Nussbaum, *The fragility of goodness*, pp. 264-289.

[75] M. Nussbaum, *The fragility of goodness*, p. 288.

[76] M. Nussbaum, *The fragility of goodness*, p. 290-291. "Aristotle emphatically asserts
that the goodness of lives is, and must be, a species-relative matter." Ibid, p. 292.

[77] M. Nussbaum, *The fragility of goodness*, p. 301.

[78] "Aristotle has … attacked the techn conception of practical reason … on several
fronts. He has insisted upon anthropocentricity, denied commensurability of the values,
shown both the limits (and also the positive contribution) of the general, placed the alleged-
ly ungovernable 'irrational parts' at the heart of rational deliberation. He has developed
further a conception of practical reasoning … in which receptivity and the ability to yield
flexibly to the 'matter' of the contingent particular were combined with a reverence for a
plurality of values, for stable character, and for the shared conventions of which character,
through moral education, is the internalization. … Aristotelian practical wisdom is, up to a
point, both general and … teachable. … [Further] a creature who deliberated with all the
superiority of an acute scientific intelligence but did not allow himself or herself to respond
to his surroundings through the passions would both miss a lot that is relevant for practice
and be inhumanly cut off from much of the value of our lives." M. Nussbaum, *The fragility
of goodness*, pp. 309-310.

[79] M. Nussbaum, *The fragility of goodness*, pp. 312 & 317. The argument is developed
here thanks to the character Hecuba in Euripides, *Trojan Women*.

the meaningfulness of these values [e.g. advantage and justice] and their value or goodness seem to depend upon, be relative to, our human context of limitation."[80] Although context dependency and need relativity are intrinsic to all human activities, there are some which are more relational than others; these are mostly political activities and those of personal relationships. Such relational goods, Aristotle recognizes, are extremely "vulnerable to chance reversal," but the correct ethical attitude towards them would not be that of "a pig on the deck of a storm-tossed ship: caring nothing for the well-being of the ship and its passengers, it continues to eat contentedly at its trough."[81] Stability in political life is not to be sought by risking individual choices, nor by eliminating risk altogether but by cultivating association which may require self-sacrifice.[82] Such a good life in the polis is led thanks only to love, *philia*, "a relationship with something separate and external … [an] externality, … essential to the benefits and value of love, … [but] is also, plainly, a source of vulnerability."[83]

The contrast between the Platonic and Aristotelian conceptions shall be well described in terms of the images of the hunter and the plant. The latter may also be exemplified by Euripides' Hecuba.[84] Briefly, with respect to the tragic poets, there are three points which the Aristotelian moral thought prizes and are also relevant to our discussion. These are the vulnerability of human values, their irreducibility and the value of emotions.[85] But what does this all mean to the proposed Bill 60/QCV?

B. The text of the Bill 60/QCV promulgated by the PQ government does not claim to subscribe to or denounce any of the ethical conceptions discussed above. However its title as well as the preamble acknowledges the values defended by the proposal. These are 'state secularism,' 'religious

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[80] M. Nussbaum, *The fragility of goodness*, p. 341. For the detailed discussion, see: pp. 318-342.

[81] M. Nussbaum, *The fragility of goodness*, p. 345.

[82] "… the value of certain constituents of the good human life is inseparable from a risk of opposition, therefore of conflict. To have them adequately is to have them plural and separate …; to have them in this way is to risk strife. But to unify and harmonize, removing the bases of conflict, is to remove value as well." M. Nussbaum, *The fragility of goodness*, p. 353.

[83] M. Nussbaum, *The fragility of goodness*, p. 354. For the detailed description, see, pp. 343-372.

[84] See: M. Nussbaum, *The fragility of goodness*, pp. 397-421.

[85] See: M. Nussbaum, *The fragility of goodness*, pp. xxix ff.

neutrality,' and 'equality between men and women,' all values shared by Western liberal democracies which implicitly affirm *mutatis mutandis* the Platonic-Aristotelian conception of the good briefly sketched above. Hence, in assessing the value and relevance of the Bill 60/QCV, we need ask what conception of liberalism underpins the proposal, if it does at all; and what public sphere is herein envisaged, homogeneous or heterogeneous, despite the Canadian commitment to multiculturalism. Further, what role the religions have to play here, if at all. Once again, in this inquiry, we shall follow Nussbaum's lead.

Presenting herself as a political liberal,[86] Nussbaum advances the argument that a decent society can handle well the contemporary challenges of multicultural and pluralistic Western (and other) democracies. What is required "is to imagine ways in which emotions can support the basic principles of the political culture of an aspiring yet imperfect society, an area of life in which it can be hoped that all citizens overlap, if they endorse basic norms of equal respect: the area of what Rawls has called the "overlapping consensus.""[87] In developing the argument, Nussbaum detects a problem in the liberal tradition which while endorsing equality finds itself at a loss in engendering, maintaining and strengthening social cohesion. Affirmation of heterogeneity seems to risk unity. In order to remedy this situation, major political thinkers like Rousseau, Comte, Mill and Tagore have proposed or been in favor of a 'civil religion' or a 'religion of humanity'. But neither Mill nor Tagore (whose visions constitute a solid base for Nussbaum's proposal)[88] "has a clear story to tell about how the new "religion" will be disseminated, or why we should think that

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[86] In her most recent book, *Political emotions: why love matters for justice* (Cambridge, Massachusetts & London, England: The Belknap Press of Harvard Uni. Press, 2013), Nussbaum writes: "… my conception of the decent society is a form of "political liberalism," one in which political principles should not be built upon any comprehensive doctrine of the meaning and purpose of life, religious or secular, and in which the idea of equal respect for persons gives rise to a careful abstemiousness about government endorsement of any particular religious or comprehensive ethical view" p. 5-6. Her self-conception as a political liberal (see: M. Nussbaum, *Women and Human Development*, pp. 74-75 & 179f.) has important consequence in perceiving the role of religion in society; we shall come back to this aspect below.

[87] M. Nussbaum, *Political emotions*, p. 6.

[88] A discussion of the visions of an emerging ideal citizenry by Mill and Tagore in contrast especially to A. Comte constitutes the central part of Part I; it is seen as a continuation of the image of the citizen, Cherubino, endorsed by Mozart in *Le Nozze di Figaro* (1786). For details, see: M. Nussbaum, *Political emotions*, pp. 27- 109.

it will prevail" and "their failure to articulate a vision of a decent society makes their diagnoses seem piecemeal and ad hoc."[89] How should, then, the political liberalism address the issue of social cohesion, ensuring the maintenance of liberal values, especially of equality, liberty and fraternity? In other words, how can 'overlapping consensus' be built without eliminating differences? Nussbaum starts with envisioning an 'aspiring society' whose ideals entail all liberal values solidly founded on love[90] and compassion; identifies the resources and threats; and finally proposes a program of education in public emotions[91]. Without entering into a detailed discussion of her thesis,[92] we shall avail ourselves of two points which seem to impinge on the Bill 60/QCV. These are pluralism and the status of religion in the public sphere.

The liberal aspiring society whose ideal citizens would consist of Cherubinos and Bauls is simultaneously both alike and radically different from what was envisioned by Rousseau/ Comte, for it does not require "coercive homogeneity" for "emotional efficacy;"[93] it conceives of sympathy, love or altruistic concerns "in a far more variegated and even antinomian way."[94] While Rousseauian/Comtean proposals of a civic religion are valuable in creating social cohesion to an extent, they abolish heterogeneity and risk inculcating submission without any dissent. The Comte/Mill tradition also ignores radical, "real evil."[95] In contrast, Tagore and Whitman "both argue that projective disgust and splitting must be

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[89] M. Nussbaum, *Political emotions*, p. 106.

[90] "As Cherubino understands, this [love] means seeking a good outside oneself, which is a scary idea. It is, nonetheless, an idea that Figaro must learn before he can be the kind of citizen Mozart … demands – and learn it he does." M. Nussbaum, *Political emotions*, p. 43.

[91] The last issue constitutes the whole Part III (pp. 199-397) of her book, *Political emotions*, whereas the former issues are analyzed in Part II (pp.111-198). In the following sections of this essay, ample reference is made to the contents discussed.

[92] Besides the introductory first chapter and brief summaries at the beginning of each Part, chapter 11 (M. Nussbaum, *Political emotions*, pp. 378-397) provides a general view of her arguments.

[93] M. Nussbaum, *Political emotions*, p. 378. Bauls, an autochthonous population of Bengal, were the inspiration for R. Tagore's political philosophy and poems; Nussbaum highlights this dependence as a key factor in his thought which contemporary democracies need take account of. For details, see: M. Nussbaum, *Political emotions*, pp. 82-109; and passim.

[94] M. Nussbaum, *Political emotions*, p. 379. This second way of conceiving emotions is attributed to Mozart/Mill/Tagore; Nussbaum generally agrees with their pluralisms and conceptions of religion, although corrects and modifies various aspects of their positions, as well as adds new elements of her own in the final picture of political emotions.

[95] M. Nussbaum, *Political emotions*, p. 165.

overcome in order to attain a morally satisfactory type of national unity."[96] Thus the ""Cherubinic" citizen"[97] envisaged by the political liberalism of Nussbaum needs to learn *public emotions* in order to ensure heterogeneity and pluralism. The reinvention of civic religion entails then education of public emotions, projects based on extended compassion as well as measures to protect them against threats arising from inimical forces such as fear, envy and shame.[98]

Patriotism constitutes a concrete example of public emotions to be shaped; it is "Janus-faced"; may represent exclusionary values, coerce conscience and promote uncritical homogeneity or it may be too superficial to be effective. In order that it serves the aspiring society, it has to be transformed something like a new 'spiritual principle' shared by all, as it was done by Martin Luther King Jr. Hence, Nussbaum argues: "Love of one's nation is not a good thing in itself. Very often it is a very bad thing. … Nonetheless, a nation that pursues goals that require sacrifice of self-interest needs to be able to appeal to love of the nation, in ways that draw on symbol and rhetoric, emotional memory and history …"[99] A critical, broad, inclusive love of nation shall emerge when it is mediated through tragedy and comedy. They enable us to imagine "a world of "concordant action" between the two [opposing] spheres of value" and "to celebrate that fragile joy – while repudiating the all-too-common pretense that one is invulnerable."[100] The aspiring liberal society shall hence reinforce its "sense of a common fate and a friendship that draws the advantaged and less advantaged into a single group, with a common task before it."[101]

Could this perhaps be a legitimate rationale to introduce QCV? Would not QCV be defended as a civic program to inculcate Quebec identity among all Cherubinic citizens? This seems plausible if one admits that a political liberalism underpins the QCV. However, Nussbaum's conception of liberalism would question various aspects of the Bill 60 starting with the nationalism and correspondent emotions implicit therein.[102] It may be right

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[96] M. Nussbaum, *Political emotions*, p. 186.

[97] M. Nussbaum, *Political emotions*, p. 202.

[98] Chapters 8, 9 and 10 deal respectively with the three issues mentioned here; for details, see: M. Nussbaum, *Political emotions*, pp. 204-256; 257-313; & 314-377.

[99] M. Nussbaum, *Political emotions*, p. 256.

[100] M. Nussbaum, *Political emotions*, pp. 270 & 272.

[101] M. Nussbaum, *Political emotions*, p. 345.

[102] M. Nussbaum, *Political emotions*, esp. pp. 211-219; for how to teach patriotism critically, see: pp. 249-256.

to affirm that removing social vulnerability and promoting stability were the positive aims of QCV; but in achieving that it stands more alongside Comte and Rousseau, and consequently would risk the common good it aspires to preserve and cultivate. It also comes close to proposing a religion of humanity in the style of liberal thinkers hitherto mentioned, but the insistence on *coercive* implementation risks the project.[103] Further, the status of religion conceptualized in the Bill 60 limits it to the *heritage* value; religion belongs to the museum, not to the public sphere. What would then be a solution? We shall advance a few thoughts in the conclusion here below.

CONCLUSION

Following Nussbaum's analysis of the common good envisioned in Western liberal democracies, we have argued that the values defended by the proposed QCV/Bill 60, namely the values of religious neutrality, state secularism and equality of persons, shall be seen as liberal values/ideals which an aspiring decent society of Cherubinic citizens would cherish and promote. However, it has been pointed out that *how* these values shall be defended and strengthened is the crucial question which hitherto has received little or inadequate attention from political thinkers including John Rawls. The role that emotions play in engendering and maintaining national/social coherence has been well recognized by many classical political thinkers, however they have either ignored or were unaware of the debilitating and destructive force of emotions such as fear, envy and shame. Nussbaum's reinterpretation of the civic religion takes this into consideration, and hence proposes an education in context, enhancing one's relationship with the body and a polymorphous political love.[104] What would this mean to religion's role, if any, in the public sphere?

According to Nussbaum, political liberalism confronts a *dilemma* when it comes to dealing with religion in the public sphere.[105] Whereas it

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[103] For detrimental emotions connected to such insistence and viable antidotes, see: M. Nussbaum, *Political emotions,* pp. 320ff.

[104] M. Nussbaum, *Political emotions,* pp. 380ff

[105] "Political liberals characteristically defend two theses that appear to be closely related. First, liberals hold that religious liberty, or more generally the liberty of conscience, is among the most important of the human freedoms and must be given a very strong degree of priority in the basic structure of a political regime. This is frequently understood to entail that the freedom of religious exercise can permissibly be infringed upon only when there is an imminent threat to public order. Second, liberals hold that human beings have

affirms a separation between religion and state, it also guarantees for all religious freedom and equality before the law. Values defended by the state, which also are mostly universal values or human rights, are at times partly or fully challenged or rejected by major religions. If such tensions arise jeopardizing the common good, political liberalism accords with placing constraints on religious freedom.[106] Unlike comprehensive liberalism or secular humanism, the political liberalism advocated by Nussbaum considers religion as relevant in the public sphere for its 'intrinsic value of religious capabilities,' identity constituting factors for the believers and internal diversity.[107] All these do make religion a dependable source in enabling and facilitating the liberal values advocated by the QCV, for example. It is not presumed that there is a homogeneous understanding regarding these values among the religions, among the secular or non-religious perspectives or between them. However, concordance on the aforementioned liberal values exists, despite diverse perspectives; and these need clarification.

What is attempted here is on the one hand a delicate balancing between religious freedom and human rights, pointing out to the positive aspects of religious values which agree with liberal values; commending them to the public, but also obliging religion to be within the bounds of political liberal laws. On the other hand political liberalism distances itself from comprehensive liberalism and secular humanism, seemingly advocated by the QCV/Bill 60 if one understands the 'restriction on wearing religious symbols' (#5, Bill 60) as "a dismissive and disrespectful stance toward religion."[108] In fact, Bill 60's tone and formulation resembles very much the French Commission's Report[109] on *laïcité* whose rationale may

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various other rights, including rights to freedom of movement, freedom of assembly, freedom of speech, equal political participation, equal treatment under the law, both civil and criminal, and, finally, various rights to the integrity and inviolability of the person." Martha Nussbaum, *Sex and Social Justice* (Oxford University Press, Oxford, 1999), p.81. For her discussion of the dilemma, see: pp. 81-872; 102-117.

[106] "No religious group, then, should maintain a separate system of law that either violates the basic rights of any citizen … or involves the religions in inequality vis-à-vis one another." M. Nussbaum, *Sex and Social Justice*, p. 109.

[107] M. Nussbaum, *Women and Human Development*, pp. 179ff.

[108] M. Nussbaum, *Women and Human Development*, p. 180.

[109] Bernard Stasi, *Commission de réflexion sur l'application du principe de laïcité dans la République : rapport au Président de la République*, submitted on: December 2003. http://www.ladocumentationfrancaise.fr/var/storage/rapports-publics/034000725/0000.pdf

not be adequate enough to justify the liberal values enunciated in QCV. For in the context of France, *laïcité* has a long and unique history, it prioritizes the freedom of conscience, emphasizes individual choices, promotes a critical education vis-à-vis the religion, attempts to consolidate common fundamental values in the society and recognizes the equality between men and women as a recent achievement. Here is, then, a narrative constructed to secure the *laïcité* against any possible assault from radically religious or radically indifferent to religion.[110] This does not yet seem to be the case with QCV which opts for legislation rather than persuasion in promoting common foundational values. And this takes us to the status of religion in the public sphere.

In presenting above under section I the diverse conceptions of the contemporary public sphere, it has been argued that the discursive model represented by Benhabib corresponds to the North American/Western liberal democracies. The crucial issue concerning *how* to inhabit it divides the liberals among themselves but also from the libertarians and secular humanists. Drawing on a distinction employed by Charles Taylor with respect to conceptions of the transcendence among secular humanists, believers and atheists,[111] one might safely affirm that the status of religion in the public sphere is amply conceded by the libertarians, denied by the secular humanists and conditionally approved by the liberals. This offers, however, only a partial picture: for despite sanctioning a separation between state and religion, freedom of conscience, state religious neutrality and individual equality before the law are shaped with much nuance. In fact, the central issue is simple: freedom of conscience/religion vs. human rights; but the solutions hitherto offered are complex and often inadequate. A hierarchical ordering favored by libertarians, secular humanists and comprehensive liberals would lead to abstract universalism of values and consequent discrimination of individuals and groups marshalled to order under civic/religious regimes. An egalitarian ordering

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110 For an analysis of the vicissitudes of *laïcité*, see: Jean Baubérot and Micheline Milot, Laïcités sans frontières (Paris : Éditions du Seuil, 2011).

111 Taylor talks about three groups: secular humanists, neo-Nietzscheans, and acknowledgers of the transcendence or of some good beyond life. Within these groups, there exists much diversity; besides, among the last group there are those alike Taylor who affirm the Enlightenment narrative, and others who reject it. His political leaning hence may go well with political liberalism, despite some reservations. See, Ch. Taylor, *A Secular Age*, pp. 636-637.

with occasional constraints favored by political liberalism seems to show the way forward; it is, however, still in an *aspirational* phase. The challenge consists in cultivating thorough pluralist values and institutions.