The Challenges of a Secular Quebec

Contents

Introduction

LUCIA FERRETTI AND FRANÇOIS ROCHER

On June 16, 2019, the Quebec National Assembly adopted the Act Respecting the Laicity of the State (Bill 21).[1] The enactment of this legislation did not put a stop to the debate over the legality, and even the legitimacy, of the government's initiative. To some extent, the act provides a framework for how Quebec parliamentary, governmental, and judicial institutions should uphold the principles of secularism in fulfilling their mission. Basically, the law proposes prohibiting the wearing of religious symbols by people in defined categories of employment within the public or para-public service and in positions of authority (for example, justices of the peace, jurists, peace officers, public sector teachers, and principals). Moreover, it requires public employees to perform their duties with their faces uncovered and requires people receiving a public service in person to do the same.

Bill 21 is part of a shared conversation in Quebec that has been going on for some time now and has often been marked by bitter interventions, invectives of all kinds, accusations of racism and xenophobia, and ad hominem condemnations. This shared conversation began in the lead-up to the Bouchard-Taylor Commission in February 2007, following which the Liberal government led by Jean Charest tabled Bill 94 in 2010, which died on the order paper.[2] The Parti Québécois government

introduced the Charter of Values in 2013, which also died on the order paper,[3] and the Liberal government led by Philippe Couillard tabled Bill 62 in 2015.[4] On each of these occasions, the principles of secularism were discussed and debated at length by citizens, academics, representatives of different religious denominations, jurists, and activists defending the rights of ethnocultural and religious minorities. The principle of laicity is widely supported by a majority of Quebeckers. However, in practice, support for this principle varies depending on the nature of the religious symbols worn by public officials in positions of authority or by public schoolteachers. A majority of Quebeckers support the following bans, even for teachers: the banning of the burqa, the niqab (that hides the face), the hijab (that covers the head and hair), the kirpan, a conspicuous cross, and the *dastar* (Sikh turban). Nevertheless, there is still opposition to Bill 21 in Quebec and the rest of Canada – opposition that is to be expected in a democratic society – and this opposition has now been taken to the courts. The Manitoba government has even invited Quebec civil servants who feel threatened by Bill 21 to move to that province, although the invitation does not seem to have generated much of a response.

At this point, it may be tempting to assume that the arguments and preferences of the various parties have crystallized and that there is nothing further to add to the debate. However, we need to avoid making too many assumptions because a judicial saga over Quebec laicity is looming on the horizon. Despite all the discussions that have taken place on this issue, we believe the principles underlying secularism still deserve to be explored in greater depth, if only to shed new light on the way in which people in Quebec understand the principles of the separation of state and religion as well as the religious neutrality of the state. At the same time, it is important to consider Quebec's specific context, given its unique history in North America. This context justifies government intervention in the area of secularism, just as it justifies the character of government interventions put forward in Bill 21. We also believe it is important to respond strongly to the arguments put forward by the critics of Quebec's model of secularism. Similarly, at a time when the courts are being called on to rule on the legality and constitutionality of the Act Respecting the Laicity of the State, there is an urgent need

to recall the legal grounds of interpretations of Canadian legal norms that respect Quebec's difference. In addition, some people may argue that the very act of invoking the notwithstanding clause in the Canadian Charter of Rights and Freedoms (Canadian Charter) explicitly acknowledges the supposedly discriminatory nature of a Quebec law with respect to religious minorities.[5] The reality of the situation is far more complex and nuanced than that. Finally, considerations of how religious symbols worn by teachers are perceived by students should consider the scope and meaning of communication in the pedagogical context, which goes beyond the individual rights of those directly concerned. These are the particular issues that we explore in the different chapters of this book.

This book is divided into four sections. The first section puts into perspective the issues arising from the secular nature of the state in the Quebec context. The second section provides a historical and sociological overview of debates in Quebec on this issue, taking into consideration the voices of Muslim women. The third section looks at the legal challenges associated with Bill 21. The last section of the book addresses the meaning of religious symbols in the school environment.

Putting Things in Perspective

In the first chapter, François Rocher considers the concept of secularism and the different meanings associated with this concept. He reminds us that defining secularism takes place in a particular social context. Choosing how to define secularism implies taking a stand on the field of struggle between different understandings of the political community and of the conditions required to share a common space. In this regard, citizens, analysts, commentators, and intellectuals speaking out on the way in which secularism operates in practice do so based on a particular vision of the principles that should govern society; they do so implicitly or explicitly, which indelibly shapes what they say. Therefore, we are seeing a profusion of labels aimed at discrediting the positions of people on different sides of the debate, all with the intention of showing the moral superiority of one position over another. The author argues that the four principles of laicity are clearly stated in Bill 21. What creates a problem is the way in which these principles are ordered in a

hierarchy. Opponents of Bill 21 hold that the principle of freedom of conscience and religion, emphasizing respect for individual convictions, should hold precedence over other principles. For supporters of the approach taken in Bill 21, the principle of state neutrality, and the obligation for people in different categories of public sector employment to respect this principle, should be paramount. The approach taken in Bill 21 is not incompatible with democratic liberalism. However, it is based on a vision of democratic liberalism that diverges from the one most commonly found in Canada outside Quebec and in certain circles within Quebec – a vision of democratic liberalism that is also widely shared by the courts.

Lucia Ferretti begins by outlining what she considers to be the limited scope of Bill 21. She recalls that it meets all the criteria according to which a law is considered to have strong democratic legitimacy. She considers opposition to this law to be more political than legal, given the means being deployed to strike down the law: indeed, the drive to invalidate the law aims to delegitimize any attempt by the state and citizens of Quebec to make their own choices in regulating the relationship between public authorities and religious organizations. The author then proceeds to analyze legal texts, from which she draws several conclusions. Freedom of religion is defined and defended so broadly in Canada that it ends up running counter to the spirit of the most important international covenants. Freedom of religion is not understood as forming a part of freedom of conscience. Instead, freedom of conscience is understood as forming a part of freedom of religion. The Canadian model of regulating religion is maximalist, very liberal, and multiculturalist, and it has widespread effects. This model favours the penetration of religious normativities within the state, and it encourages fundamentalist interpretations. The model has serious consequences, particularly for First Nations and women. Finally, by giving precedence to the "government of judges" over "parliamentary sovereignty," this model undermines Quebec's ability to develop its own model for regulating religion. The model also fuels social tensions. How can we speak of the rule of law when its application to Quebec has so little concern for democracy within Quebec?

Historical and Sociological Perspectives

The evolution of the relationship over time between the church (whether Catholic or Protestant) and the state sheds light on the secularism debate. Indeed, Marc Chevrier considers the church to have been a political institution in Quebec from the era of New France until the 1960s. The Catholic Church embodied a Catholic city, which was grafted onto civil and political institutions in a relationship of dependence, competition, and collaboration. This implicit union or alliance binding the church and political power together originated in large part from British imperial policy. It was secured by the dictatorship of the Special Council in 1838–41. It then pursued its growth, thanks in part to jurists who orchestrated the dual membership of Catholics in two cities of public law – the one religious and the other civil. Once Quebec succeeded to the imperial legislator and United Canada, it built up this unique dual system of public law in North America. By enacting legislation, Quebec extended the system to encompass powerful Protestant denominations and other religions. However, questions have been raised about provincial jurisdiction in matters of religion, a jurisdiction that some would like to deny or reduce, based on the opinions of several Supreme Court of Canada justices. These opinions, Marc Chevrier observes, go back to the legal texts resulting from the British Conquest of 1759–63 and are used to support the supposedly exclusive right of the Federal Parliament to regulate religious freedom and observance. In other words, this thesis links state violence to the sovereign right to allocate religious rights and is also reminiscent of the philosopher Thomas Hobbes, for whom the state comprised two cities – the one spiritual and the other political.

This "Westphalian" thesis was weakened, however, by the constitutional amendment of 1997, which unconditionally deconfessionalized the Quebec public school system. Newfoundland moved to create a non-denominational public school system as well but was obliged by the Constitution to maintain some religious presence in its schools. Beyond the legal aspects involved, the real issue is whether Quebec will have to adhere to a pan-Canadian civil religion that enables religion to permeate into the political realm or whether Quebec will be able to live

under a single-city system, free of religious influence, while respecting freedom of religion and conscience.

Micheline Labelle analyzes the various and sometimes bitter debates around Bill 21 from a critical point of view. She reminds us that this act is rooted in the history of Quebec, which has seen a progressive move to secularize public institutions, a move that has occasionally been accompanied by conflict. Moreover, she finds the arguments used to support or oppose the act are reminiscent of arguments in early 2010 between the signatories of the Manifesto for a Pluralist Quebec (Manifeste pour un Québec pluraliste; see Bosset et al. 2010) and the Declaration of Intellectuals for Secularism (Déclaration des intellectuels pour la laïcité; see Baril et al. 2010). The author shows how the attacks on the Act Respecting the Laicity of the State are inspired by the vision of Canadian multiculturalism, which is based on refusing to recognize the Quebec national question and the collective rights that go with it. Moreover, some opponents of Bill 21 have resorted to radical theories denouncing the "whiteness" of relations of domination and neocolonialism and postulating that power relations are ever-present in the production and maintenance of inequalities in social institutions. However, the most virulent accusations have come from religious circles supported by that part of the Left upholding the virtues of pluralism, inclusion, and openness. It is in this context that the court challenge to Bill 21 – led by a student, Ichark Nourel Hak, and supported by the National Council of Canadian Muslims and the Canadian Civil Liberties Association – is analyzed. Labelle points out, in conclusion, that these debates are not unique to Quebec: they are part of communitarian struggles and political currents that actually reach beyond national borders.

As a political scientist and feminist, Yasmina Chouakri has been meeting immigrant women of all nationalities and religious faiths for several years. In her chapter in this book, she speaks for women whose voices are not often heard: women from countries with a Muslim majority. Islam in Quebec is not limited to the conservative currents that are most forcefully expressed in the public sphere. There is also a modern and emancipating Islam in Quebec. Most so-called Muslim women are not merely women assigned to a religion or even compelled to wear a veil.

Conservative Islam seeks to impose a vision of religion that stigmatizes and essentializes Muslim women. The author regrets that this vision is now taken up not only by the Liberal parties and governments in Quebec and Canada but also by feminists, who comprise the associative movement that practises intersectional analysis, as well as by the multiculturalist Left. In reality, Bill 21 is not a problem for the majority of so-called Muslim women, for whom religious issues are far from the focus of their concerns. What they want most of all is the removal of structural barriers that compromise their access to meaningful employment and prevent them from attaining the financial autonomy that they want. These barriers include the representation of Muslim women created by conservative Islam and its allies.

Legal Perspectives

Julie Latour brings together everything there is to know about secularism in general and the Act Respecting the Laicity of the State in particular. She shows that Quebec laicity is, above all, a generator of rights: indeed, secularism is the primary condition of freedom – particularly, freedom of religion – of which it forms an intrinsic part. Laicity has come to be recognized as one of the founding principles of Quebec. It has become a cornerstone of the architecture of fundamental rights. Laicity has a structural value and is a fundamental right, which means that the state is therefore required to offer secular institutions and public services.

Laicity also promotes the full exercise of freedom of thought and opinion and increases the protection of existing civil rights. The act is thus destined to form a legal triptych of fundamental importance along with the Quebec Charter of Human Rights and Freedoms (Quebec Charter) and the Quebec Civil Code.[6] While the act is in keeping with the continuity of the law, it is also a source of innovation. It fulfills an important and real purpose, in line with Quebec's historic legal traditions and unique character. It serves as the foundation of a pluralist society, strengthening democracy, the essence of which, in the words of jurist Aharon Barak (2002), is characterized by a dialogue between individual rights and the needs of the community. Finally, the act is consistent with the most recent trends in Canadian constitutional law

that have signalled the end of "open" secularism. It pursues a legitimate objective by allowing for the deployment of the citizen who is at once free, open to being with others, and aware of belonging to a larger political community based on the principle of equality in diversity.

Several cases have been brought before the courts asking that either the entire Act Respecting the Laicity of the State or almost half of its provisions be declared unconstitutional. Daniel Turp maintains that this is a massive constitutional challenge of unprecedented scope. In his "massive rebuttal," he examines each of the arguments put forward by opponents of Bill 21, relating to the use of notwithstanding provisions, the infringement of rights guaranteed by the Quebec Charter and the Canadian Charter, and the division of legislative powers enshrined in the British North America Act of 1867.[7] He shows how these arguments rest on shaky grounds and why the courts should reject them. He concludes by pointing out that the Quebec government adopted this legislation bearing in mind both the interpretation favoured by the Supreme Court of Canada on limits to the wearing of religious symbols and the role of the idea of multiculturalism in its interpretations. Quebec, meanwhile, has chosen a different path by making laicity an essential condition for the protection of freedom of conscience and the equality of all Quebeckers.

Section 28 of the Canadian Charter affirms the equal guarantee of rights for both men and women. Can it be used to circumvent section 33 ("the notwithstanding clause") in such a way that the Act Respecting the Laicity of the State loses one of its protections from legal challenges? This question is now being debated in English Canada. Some legal experts are working on it, while others do not believe it is possible. Guillaume Rousseau introduces us to the leading participants in this debate and weighs the value of their arguments. He maintains that there is no basis for such a claim. Then he takes part himself in the debate from a Quebec perspective. In discussing the history of section 28 of the Canadian Charter, he shows that English Canadian feminists did not succeed in having women's rights and freedoms enshrined as a specific chapter in the charter that was beyond the reach of the notwithstanding clauses; all that Pierre Elliott Trudeau's government granted was to shelter women's rights from section 27 (interpreting the charter

based on the objective of promoting multiculturalism). On the other hand, he shows that several English-speaking provinces made their adoption of the Canadian Charter conditional on the inclusion of section 33. Quebec also wanted to protect the sovereignty of its legislature from judicial review of the constitutionality of its laws. In fact, since 1982, Quebec has frequently invoked this section, particularly to defend laws that for historical reasons benefit women. Rousseau concludes that it is a good thing that section 28 is only an interpretative provision and not an autonomous substantive right: what a paradox it would be if, in the name of equality between men and women, we were to invalidate laws that favoured women!

We may ask to what extent Quebec can assert a specific model of relations between the state and religion that is not invalidated by Canadian courts. Patrick Taillon answers that the use of the "dialogue theory," as advocated by the Supreme Court of Canada itself, opens the door to the possibility that the courts may be sensitive to the intentions of political authorities in weighing and balancing rights. He shows that, over the past decade, the Supreme Court has changed its interpretation of the scope and limits of freedom to express religious beliefs. It has progressively moved from a maximalist reading, which cultivates the impression that the individual right to express religious beliefs is unlimited, to a reading that recognizes the importance of balancing this right and seeking to recalibrate it in light of the legitimate interests pursued by legislators. For its part, Quebec has used all the legal instruments at its disposal – first, to assert an approach that differs from the one shared by the rest of Canada and, second, to attempt to correct the Supreme Court's maximalist interpretation, in particular, by granting secularism a quasi-constitutional status in the hierarchy of norms. Canadian law, within the framework of a federal state that recognizes the provinces' variety of preferences, could be sensitive to Quebec's difference by drawing on the European experience, which offers examples of systems for the protection of fundamental rights that allow for the coexistence of a variety of approaches to the relationship between federated entities and religions. In other words, respect for the spirit of federalism should allow for a diversity of interpretations of religious freedom and state neutrality. In a federal state, there should be no

uniform, standardized, or universal norm since each society within that state must find a reasonable balance that is appropriate to its own context and historical experience.

Educational Perspectives

"The medium is the message." Marshall McLuhan's ([1964] 2013, 10) famous formulation is as true as ever. In the classroom, a teacher not only transmits a message, but he or she is also a message. Moreover, a symbol is a symbol: a symbol is not "insignificant" since that would contradict its very nature. A teacher who wears a religious symbol in class is therefore actively sending a dual message: on the one hand, a symbol identifying religious faith and, on the other hand, a symbol that is the subject matter of the course. Based on theorists of the functions of language including Roman Jakobson, Charles-Étienne Gill maintains that any symbol not relevant to communicating the subject matter, or to the conditions promoting it, constitutes interference – noise – both in terms of communication and of the teaching relationship. This argument leads to the question: should the right of some teachers to generate noise prevail over the right of students – a captive audience subject to authority – to receive knowledge without interference? Communications theory clearly shows that it is impossible not to interpret a symbol when the situation requires it to be observed. Respect for the freedom of conscience of students and their parents therefore militates in favour of prohibiting religious symbols for teachers and other school personnel in positions of authority.

How can we explain the "ideological inversions" that show up in the virulent debate on secularism: a pluralist Left that dissociates itself from the secularist Left's age-old struggle in favour of secularism and a nationalist current – frequently conservative – that instead makes secularism its hobby horse? To understand this, Normand Baillargeon takes us back to Ferdinand Buisson, an important figure in the fight for secularism in France. Secularism was indeed born on the Left and even on the radical Left. Buisson was a Protestant who was close to the First International in the late nineteenth century, close to anarchist circles all his life, and one of the cofounders of the Ligue des droits de l'Homme (French League of Human Rights). At the beginning of the 1880s, he

was recruited by Jules Ferry, the prime minister of France, to implement the law of the Third Republic creating a public, secular, and compulsory elementary school system. For this thinker of secularism, the school was the central institution of the republic, and it had to give students the tools to emancipate themselves, if they so desired, from their social milieu, cultural background, and dominant ideologies. It had to ensure they were free beings, committed to building human solidarity beyond cultural and community ties. Baillargeon shows how this freedom and universalism have become suspect, especially among thinkers of the communitarian Left, who bitterly defend "open" secularism. This latter form of secularism aims to anchor each person in their social milieu and culture of origin and to fold them into a fixed identity without any possibility of evolution. This fixed identity is deemed to be under attack by the project of republican secularism. "Open" secularism thus appears as the offshoot of postmodernism and theories of identity.

There is an ongoing debate on the prohibition of the wearing of religious symbols in the school setting by teachers and other personnel in authority. Paul Sabourin brings to the debate findings from the sociology of knowledge. First, the meaning or absence of meaning given to religious objects cannot be reduced to a purely personal, subjective, or psychological dimension. Indeed, the meaning of religious objects is a product elaborated and shared for so long that these objects are still very generally perceived for what they are – namely, religious objects. Second, the role of the school is not to transmit beliefs or experiential knowledge, particularly religious ones. Rather, it is to transmit immanent knowledge and, above all, to help students develop the all-important skill of critical thinking.

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The different perspectives presented in this book help shed nuanced light on the merits of the Quebec government's initiative to regulate the relationship between religion and the state in the Quebec context. The authors do not assess the scope of the law in the same way; their angles of analysis and their sensitivities are not all the same; their evaluation of the place and value of the Catholic Church in the history of Quebec may vary; and, finally, their relationship to faith and religion

is very personal. But the authors present a range of arguments in support of Bill 21 from several disciplines: law, history, sociology, communications, philosophy, and political science. The authors take seriously their role as academics, practitioners, analysts, and teachers in contributing to the public debate and in fulfilling their duty to think critically.

We believe in the need to establish a fruitful dialogue with the critics of the Act Respecting the Laicity of the State. In order to do this, we would like these critics to see the act as something other than the sum of all evil. Some of these critics maintain that the act could complete the process of oppression of minorities that supposedly defines contemporary Quebec, as embodied by François Legault and the Coalition Avenir Quebec. Our intention is intellectual and civic: we seek to understand the meaning of Bill 21 in the particular context of Quebec. In light of the contributions brought together in this book, it is hard to see how this legislation can be at one and the same time a kind of societal slippage, a whiff of populism redolent of exclusive nationalism seeking to reproduce colonial relationships, "the affirmation of the civilizational superiority of the white Catholic francophone community" (Celis et al. 2020, 5), a racialization of religious groups illustrating "white ignorance and colonial innocence" (5), a deepening of economic inequalities particularly affecting racialized women in the labour market confirmed by "a decolonizing feminist analysis," the expression – both in the debates and in the law itself – of discursive practices with "supremacist overtones" (7), and the result of work eroding nothing less than the "foundations of Quebec democracy" (9). In striking at the legitimacy of Bill 21, this demonization of the act makes discussion difficult. All the authors contributing to this volume defend Quebec's right to make its own choices. We also maintain the general principle that this law is legitimate and will ultimately promote the harmonious development of Quebec as a society and nation.

Notes

1 Act Respecting the Laicity of the State, SQ 2019, c. 12.

2 Bill 94, An Act to Establish Guidelines for Requests for Accommodation within the Administration and Certain Institutions, 2010, which was introduced in a detailed study during the 39th Legislature, 1st Session and was reinstated during

the 39th Legislature, 2nd Session on February 24, 2011 (Kathleen Weil, Minister of Justice).

3 Bill 60, Charter Affirming the Values of State Secularism and Religious Neutrality and of Equality between Women and Men, and Providing a Framework for Accommodation Requests, November 7, 2013, which was introduced during the 40th Legislature, 1st Session (Bernard Drainville, Minister responsible for Democratic Institutions and Active Citizenship).

4 Bill 62, An Act to Promote Respect for the Religious Neutrality of the State and Aimed in Particular at Regulating Requests for Accommodation for Religious Reasons in Certain Organizations, SQ 2017, c. 19.

5 Canadian Charter of Rights and Freedoms, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c. 11.

6 Charter of Human Rights and Freedoms, RSQ 1977, c. C-12; Civil Code of Quebec, SQ 1991, c. 64.

7 British North America Act (UK), 1867, 30–31 Vict., c. 3.

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Part 1
Things in Perspective

Putting Things in Perspective
The Many Varieties of Secularism

1

FRANÇOIS ROCHER

Quebec society has been engaged in a debate on secularism for almost two decades now. Even so, citizens, social, and political actors in Quebec still do not agree on the meaning of secularism. In fact, exchanges back and forth on the subject tend to take the form of formal denunciations, with each side claiming to make a fair, well thought out, well documented, and relevant interpretation to meet the challenges facing Quebec. Secularism (officially referred to as "laicity" in the Quebec context) is often presented as a "value" and is used to defend certain ideas about the way in which the state should manage its relationships with diverse religions. For example, the web portal of the Ministry of Immigration, Francisation and Integration presents laicity as one of Quebec's key values, along with the French language, democracy, gender equality, and rights and responsibilities (Quebec, n.d.). Laicity is therefore a general, relatively abstract idea referring to the way in which the state seeks to distance itself from any influence that religious beliefs might have on the governance of the people. If at first this seems straightforward, why is secularism still being debated?

Part of the answer lies in the fact that secularism can also be seen as an ideology, a certain vision of the world that partly determines how

other aspects of life in society should be organized. In the words of the sociologist of religion José Casanova (2009, 1051), secularism should be understood as a statecraft principle – that is, a principle establishing the separation between political and religious authority, so that the state remains neutral towards all religions, protects the freedom of conscience of each individual and facilitates the equal access of all citizens to democratic participation. In this respect, the state cannot promote a substantive vision of religions – it cannot make a value judgment about religions, whether that value judgment is positive or negative. On the contrary, Casanova goes on to say, once the state takes a particular view of religion – of what it is and what it does – we enter the realm of ideology. In this sense, being secular does not mean leaving religion behind or even emancipating oneself from it. Nor does it mean that secularism is based on a distinction between secular people who are assumed to think and act on their own as rational autonomous free agents, while religious people are somehow unfree, non-rational, or even intolerant and subservient to the dictates of religious authorities. In presenting secularism by removing any reference to religion, this point of view is in line with an ontology of the person and should not be confused with the principle of state organization that claims to be based on the principle of secularism.

There is another reason for the ongoing debate on secularism, however. Beyond the ideological meaning of secularism, fed by an aversion to the religious phenomenon, is the fact that it identifies organizational principles that are intertwined. These principles are generally of three or four orders. The sociologist of religion Jean-Paul Willaime (2009, 26; 2017, 145) bases what he calls "principle-driven secularism" on three elements: 1) freedom of conscience, thought, and religion (which includes the freedom to have and practise a religion or not to adhere to a religion); 2) equality of citizens (in terms of their rights and duties) regardless of their religious or philosophical preferences so that they are not discriminated against on the basis of their religious or philosophical affiliation; and 3) the respective autonomy of the state and religions – namely, the separation of the state and religions with a view to guaranteeing the freedom of the state from religions and the freedom of religions from the state (see also Baubérot 2007, 20). An additional

principle can be added to the three just outlined – namely, the neutrality of the state to which Casanova refers such that the state does not maintain any particular position, whether negative or positive, on religion. In so doing, it does not seek to contain the expression of religious beliefs and preferences in the "private" sphere alone, reserving the "public" sphere (and, even more so, the "civic" sphere – that of relations between citizens, groups, and the state) for exchanges, democratic deliberations, and interactions free of religion.

Clearly, the question is knowing how these general principles are fleshed out in practice. If there seems to be a consensus in the literature on these four principles, how can we explain the virulence of the debates over the last few years? Why have we seen such a proliferation of labels opposing different visions of secularism, as if there was only one correct definition? In our opinion, the real question at issue lies elsewhere.

Secularism as a Field of Struggle

First, secularism is not easy to define and to put into practice. It is a field of struggle where each party seeks to promote its own cause by putting forward its own interpretation. Moreover, the discursive field perfectly illustrates the scale of this conflict. Not to be outdone, academics have developed many more or less flattering labels. The terms they use are not "neutral." In particular, open secularism is contrasted with conservative (as opposed to progressive) secularism or with strict secularism; inclusive secularism is contrasted with exclusive secularism; liberal thinkers confront republican (civic or conservative) thinkers; and so on.[1] In other words, stating one's case goes hand in hand with demonstrating the moral superiority of one's position. For example, political philosopher Jocelyn Maclure (2014, 17) presents liberal-pluralist secularism in the following terms:

> Liberal secularism sees the separation of State and religion and the religious neutrality of the State as primarily serving the protection of fundamental individual rights such as the right to equality and non-discrimination, and freedom of conscience and religion. I add the attribute "pluralistic" to qualify liberal secularist regimes that are

> sensitive to the recomposition and diversification of their populations and the plight of members of minority religious groups.

It would be hard to find a more caring and open-minded approach to the inclusion of individuals from a minority group. This model is contrasted with conservative secularism, which "considers special forms of recognition for the majority or historically dominant religion to be compatible with secularism ... When a public institution displays a religious symbol or incorporates a religious practice, it is thereby offering privileged support to a particular religion, thereby violating the principle of equal respect that the state owes to all citizens" (Maclure 2014, 18). According to this way of thinking, "conservative secularism" runs counter to the protection of freedom of conscience and religion and fails to show respect for all: it is therefore disqualified from the outset. The other ideal is that of republican secularism, which seeks to emancipate individuals and develop a common civic identity, which accordingly requires religious affiliations to be confined to the private sphere. This model aims to protect freedom of conscience and religion by prohibiting any infringement of these rights (it is therefore a negative freedom), but it refuses to make adjustments (or accommodations) on the basis of religious differences and preferences. The question arises whether this republican secularism would not be liberal, even if it were based on the same fundamental principles?

Once again, the construction of these ideal types is not neutral. Not everyone shares this understanding of liberalism, of its presumed openness to diversity of conviction and belief, and of republicanism (privileging negative freedoms). Legal scholar Jaclyn Neo and her colleagues (2019, 942–43) maintain, on the contrary, that the liberal approach is committed to religious freedom as a negative freedom and that the secular state simply does not seek to arbitrate between different "religious truths." Instead, the secular state seeks to provide a framework for peaceful coexistence and to guarantee the necessary conditions for religious freedom, which is a matter of private concern and personal choice.

Let us make an exception for those people who want to eliminate all reference to religious beliefs and affiliations, confining them to the private sphere alone. They deem religious beliefs and affiliations to be

irrational, and they maintain that all religions are fundamentally oppressive, especially for women and non-heteronormative people. In our view, positions like this are outside of secularism since they challenge the principle of freedom of religion and essentialize it. On the other hand, insofar as the four constitutive principles listed earlier are respected within the limits imposed by respect for human rights and democracy, there are no good or bad forms of secularism, which is a "societal choice" made by means of political and legal institutions. However, this societal choice is not made in the abstract. It is made in a particular context and at a given moment, conveyed by actors engaged in public debate as citizens or elected representatives.

As historian Samuel Dalpé and legal scholar David Koussens (2016, 470) demonstrate, the media's treatment of secularism in recent years has focused on principles relating to "modalities for regulating the individual expression of beliefs" and the prohibition on wearing religious symbols. The debates on this issue are therefore essentially articulated around the question of religious symbols. For this reason, like all decisions of a political nature, the adoption of arrangements enshrining secularism at an institutional and practical level are decisions of a political nature; as such, they are the result of a societal debate, often fuelled by the political class. These arrangements are not free of calculations of all kinds (Côté and Mathieu 2016, 414–18; Lavoie 2016, 338–39). This issue nevertheless highlights conflicts that are polarized around divergent visions of the "common good." The explicit inclusion of secularism in law – through legislation and not just through the courts' interpretation of its constitutive principles – changes the way in which institutions operate. This process is not without its problems (Milot 2004, 30).

In this chapter, we maintain that the source of tensions and conflicts of interpretation lies less in the organizing principles of secularism themselves than in the way they are implicitly or explicitly ordered in the hierarchy of principles. In other words, some observers consider that the overarching principle – the one that should come first and determine all the others – is recognition and respect for freedom of religion, followed by equality of citizens. Other observers, meanwhile, give precedence to the principle of separation of religious and public powers and the principle of the neutrality of the state. In our view, both models are

defensible. They are based on different normative visions of the role that the state should play in the organization of society. These visions, in themselves, are neither better nor worse. They are different. As sociologist Micheline Milot (2005, 14–15) reminds us, secularism must be understood as a regulatory idea rather than as an empirical reality. Indeed, secularism can take many forms depending on the contexts in which it is formulated and adopted and the conflicts experienced by these societies at different times. It therefore exists in several forms and can be the subject of several interpretations.

The drafters of the Act Respecting the Laicity of the State (Bill 21) have apparently preferred one model of secularism over another.[2] This model is favoured by the Quebec National Assembly and a significant proportion of Quebec citizens, judging by opinion polls. It conflicts with another model that orders the principles of secularism by giving precedence to the protection of individual rights. Opponents of Bill 21 take an approach to secularism that is also admittedly defensible. This approach has the advantage of being in continuity particularly with a legal tradition that has taken hold in Canada. As scholar in religious studies Solange Lefebvre (2008, 173) suggests, this may stem from the difference between the Latin and Anglo-Saxon models, the former having a more territorial identity, while Protestant cultures subscribe to a more internalized identity.

The Principles of Laicity Articulated in Bill 21

The Act Respecting the Laicity of the State, adopted by the National Assembly on June 16, 2019, aims to enshrine laicity as the leading characteristic of the state in Quebec's legal order. Among the reasons given in the preamble, the legislation emphasizes the importance of ensuring "a balance between the collective rights of the Quebec nation and human rights and freedoms," and it predetermines the order in which the principles of laicity are presented in section 2 of the act:

> The laicity of the State is based on the following principles:
>
> 1 the separation of State and religions
> 2 the religious neutrality of the State

3 the equality of all citizens
4 freedom of conscience and freedom of religion.

In the Blue Room of the National Assembly, Simon Jolin-Barrette, the minister responsible for Bill 21, recalled its three main measures on the day of its adoption: "The introduction into our law of the principle of laicity, the prohibition on wearing religious symbols for state employees in positions of authority, and the obligation to provide a public service with an uncovered face and to receive a public service with an uncovered face when necessary for reasons of identification and security" (Quebec 2019). Bill 21 incorporates the provisions of the Act to Foster Adherence to State Religious Neutrality (Bill 62), which was adopted in October 2017 when the Quebec Liberal Party was in power and concerns the obligation of public employees to perform their duties with their faces uncovered as well as the obligation of a person presenting themselves to receive a service.[3] In addition, the act contains two sections that specify that its provisions apply notwithstanding the sections relating to the protection of fundamental freedoms in the Quebec Charter of Human Rights and Freedoms (Quebec Charter) and the Canadian Charter of Rights and Freedoms (Canadian Charter).[4] The minister defended the prohibition of wearing religious symbols by certain categories of employees (including police officers, justices of the peace, correctional officers, prosecutors, principals and vice-principals, and teachers in the public school system) on the grounds that they need to demonstrate neutrality and reserve in both fact and appearance.

The application of the principles of laicity is circumscribed and essentially concerns the prohibition of the wearing of religious symbols by certain employees and the obligation to give and receive public services with an uncovered face. It leaves out entire areas of secularism that could also have been the subject of a legislative framework. Examples include the public funding of private denominational schools, the presence of chaplains in Quebec prisons, financial assistance for the protection of Quebec's religious heritage, tax benefits granted to religious organizations in the form of tax deductions for donations, refunds of municipal, school, and sales taxes, and so on. In short, the act merely

affirms the principles of the separation and neutrality of the state insofar as it concerns certain employees of the state. The act was drafted and adopted following tensions over reasonable accommodation on religious grounds as well as social demands for limitations on certain forms of religious expression in the civic sphere. In other words, it addresses the relationship that individuals have with public bodies. The act does not seek to challenge manifestations of religious affiliation in the public sphere: individuals, whether or not they profess a religion, still have the right to display their preferences in whatever way that suits them.

The use of notwithstanding clauses in the Quebec and Canadian Charters raises the question of respect for the principle of equality of citizens and the absence of discrimination based on religious affiliation and beliefs. Minister Simon Jolin-Barrette justifies the notwithstanding provisions by appealing, in the name of accountability, to the principle of parliamentary sovereignty over the courts in determining the relationship between the state and religions. In other words, Bill 21 seeks to ensure the operative principles of separation and neutrality with respect to a single issue – that of religious symbols worn by certain government employees. It seeks to ensure that some public representatives in positions of authority who act on behalf of the state express and symbolize that neutrality. It should be noted that the ordering of the principles of laicity in Quebec gives precedence to the principle of the neutrality of the state, while also recognizing the principles of equality of citizens and freedom of conscience and religion.

The Precedence of the Neutrality of the State

The principle of neutrality is based on the precedence of political power over religious power. Thus, legal norms – the ability to participate in public affairs and democratic life – apply to all citizens, regardless of their beliefs and convictions. For Milot (2002, 34), "secularism is not an opinion about religion, but an opinion about the State," in the sense that the state is required to treat all religions equally. Secularism is thus based on the principle of neutrality since it is an indispensable condition for the exercise of freedom of conscience and religion. The state may therefore neither favour nor hinder any particular religion, which is why, as the jurist Catherine Haguenau-Moizard (2000, 57–58) reminds

us, most of the legal norms concerning secularism concern the neutrality of the state, which itself is made up of several complementary elements. First, secularism recognizes the independence of the churches by granting them legal status, which allows them to organize themselves freely, to have autonomous financial resources, and to be free from interference by public authorities, provided that the churches respect the law. Second, it grants them a certain protection in the form of measures allowing individuals and religious groups, churches, and denominations to follow their own convictions. In other words, the state protects religions by sanctioning infringements of freedom or by offering services to religious organizations. As a result, the neutrality of the state entails a duty to ensure that religious and non-religious people have the freedom to exercise their religion or to enjoy freedom of conscience, despite the preferences of the majority (Milot 2002, 35).

Neutrality also entails the obligation of the state to remain impartial with respect to beliefs that cannot be deemed, *a priori,* good or bad as well as with respect to the type of life that people may choose to lead (Joppke 2007, 313). In other words, the state should take the position that it is not in a position to determine the intrinsic value of a belief, whether religious or secular. Nevertheless, it has "the duty to ensure that public order and the freedom of each individual are preserved, which could be compromised by the manifestation of certain religious convictions" (Milot 2009, 33). Neutrality is therefore not an abstract concept: instead, it refers to a social, cultural, legal, and political sphere in which norms, described by some people as dominant, have been established and are, by the same token, subject to challenge.

That said, is it possible, as philosophers Jocelyn Maclure and Charles Taylor (2010, 21) argue, that "in a society where there is no consensus on core beliefs, the state should avoid prioritizing the visions of the world and the good life that motivate the adherence of citizens to the basic principles of their political association"? In other words, the state does not have to choose, let alone favour, a particular world-view. This position is taken in the name of justice for those who do not share the beliefs of the majority and who would be marginalized for that reason. The state must ensure equal treatment of the personal values of individuals in the name of fairness and respect for diversity of belief and

conviction. Maclure and Taylor therefore oppose the state's adherence, in the name of neutrality, to a secular moral philosophy that would have the disadvantage of being just as totalizing as religions are, turning citizens who adhere to religious faith into second-class citizens. However, this way of seeing things overlooks the existence in any society (in this respect, Quebec is no exception) of civic principles that frame life in society. Indeed, the interventions of the state are all inspired, in one way or another, by a particular vision of the common good and the good life, whether it is in relation to gender (for example, Quebec has adopted a law on pay equity), to the protection of personal information, to participation in democratic life, to social solidarity, to the sharing of wealth, to the protection of life, and so on. It is somewhat illusory to imagine that a state sharing the principles of democratic liberalism does not promote a particular vision of life in society and the obligations that flow from it for the individuals and groups that constitute it, whether implicitly or explicitly.

Neutrality cannot therefore be defined as the refusal to choose, to take sides, or to not intervene. The religious neutrality of the state, on the other hand, requires not acting for or against religions or personal convictions insofar as religions and convictions respect public order and fundamental freedoms (including freedom of conscience and religion). Sociologist Christian Joppke (2007, 314) points out that even when the state tries to be neutral, it nevertheless still favours a language, makes decisions about public holidays, defines the content of public education, and organizes ceremonies, all of which reflect the "societal culture" of the majority group to the detriment of those of minorities, including religious minorities.

These general considerations are of little help when it comes to translating the principle of neutrality into concrete actions taken by the state in accommodating religious beliefs and convictions. Beyond the universal principle of "neutrality," a question arises: what attitude should public authorities adopt, in practice, regarding the convictions of others and, more specifically, the obligations imposed on government employees? In this respect, Joppke (2007) points out that neutrality is something like the Roman god Janus, facing in two directions at the same time. It can be seen as an instrument of inclusion or of exclusion,

depending on the preferences of the analysts and the actors. Neutrality is inclusive for those minorities who interpret it as conferring on them the right to pursue their way of life as they see fit. For others, the right to be different is interpreted as a factor of self-exclusion: in this respect, certain fundamentalist or orthodox practices, treated under the angle of state neutrality, instrumentalize religion for political purposes and allow faith communities to call for the segregation of the sexes in public places and for places of prayer in workplaces and public institutions as well as to refuse a public service from a person of the opposite sex.

The neutrality of the state can therefore be invoked, first, by those who want to limit the wearing of religious symbols by state employees and, second, by those who oppose any such prohibition. For people holding the first of these views, this principle requires not only that the service be provided in an impartial manner but also that those who receive the service perceive it as being delivered impartially. In other words, if the state has a duty to be neutral with respect to religions, government representatives and employees must display this neutrality. The state is not an abstract entity: instead, it is personified in men and women who convey a message through the way in which they behave and present themselves. For people holding the second of these views, such restrictions ignore the fact that services can be delivered impartially despite the appearance of the providers and that such measures are de facto discriminatory for those who do not display the symbolic attributes, or modes of representation, of the majority. To use Maclure and Taylor's (2010, 52) expression, "the requirement of neutrality is directed at institutions, not individuals." Another formulation, and one just as legitimate, would be to say that neutrality is an obligation of the state, which is itself not an abstract institution. One of the components of the state is the people who serve it.

As a result, questions about the meaning of "the neutrality of the state" seek to justify the acceptance or rejection of prohibitions that the state may impose on the providers or beneficiaries of public services, particularly with respect to the wearing of religious symbols. Yet a basic definition of neutrality would have the state simply seek to maintain distance from religions and to refrain from promoting a particular vision based on religious truth(s). Therefore, in the name of neutrality,

the state itself – notably, in the person of its representatives – should refrain from displaying religious symbols.

In section 2, the Act Respecting the Laicity of the State affirms the separation of state and religions, before affirming the principle of religious neutrality. As mentioned earlier, the scope of the law is limited to the prohibition of wearing a religious symbol. However, in section 3, Bill 21 affirms the duty of religious neutrality – a duty previously provided for in Bill 62. Although Bill 21 does not explicitly refer to Bill 62, it nonetheless draws on the precedent of this previous Act, which defines the principle of neutrality in section 4:

> Adherence to the principle of State religious neutrality includes, in particular, the duty for personnel of public bodies to act, in the exercise of their functions, so as neither to favour nor to hinder a person because of the person's religious affiliation or non-affiliation or because of their own religious convictions or beliefs or those of a person in authority.

Bill 21 does not change this definition. Actually, the two pieces of legislation complement each other. Section 4 of Bill 62 meets all the characteristics of neutrality discussed earlier. In addition, the Quebec legislator has chosen to narrow the scope of the law to the prohibition on wearing a religious symbol and providing services with uncovered face for employees of public organizations. The provision to keep one's face uncovered also applies to persons receiving a public service in person, and this provision goes back to the adoption of Bill 62.

In sum, Bill 21, like its predecessor Bill 62, upholds a model of secularism whose cornerstone is the principle of the neutrality of the state. Indeed, this neutrality stems from the principle of separation. This approach is consistent with an active model of impartiality. According to this conception, the state and its representatives should not only be impartial in providing services: they should also appear to be impartial at all times. This active model is a departure from a passive model of impartiality, according to which government officials should act neutrally, fairly, and with integrity, should abide by their duty of confidentiality, and should not seek to proselytize others. However, the former

conception of impartiality does not violate the principle of religious freedom insofar as individuals can belong to the religion of their choice and follow its precepts (Haguenau-Moizard 2000, 46). The core principle of Bill 21 differs from the passive conception of secularism that emphasizes the precedence of the principle of freedom of conscience and religion of individuals.

On the Precedence of Freedom of Conscience and Religion

There is another perspective that reverses the hierarchy of principles underlying secularism, which can be seen as an arrangement that defends the principle of freedom of conscience and religion of both individuals and groups. According to this perspective, neutrality towards the different conceptions of life in society involves recognizing and accepting differences and the multiplicity of preferences. It also means that the state not only refrains from passing judgment on these different conceptions but does not seek to contain or frame them. In other words, freedom of conscience and religion can only be guaranteed by the neutrality of the state. The philosophers Maclure and Taylor (2010) develop their reasoning further by proposing a hierarchy of principles, with institutional principles serving as moral principles. Thus, they write that "equal respect and freedom of conscience and religion are moral principles whose function is to regulate our action (or, in this case, the action of the state), whereas neutrality, separation, and accommodation are what might be called 'institutional principles' derived from the principles of equal respect and freedom of conscience" (33–34). Moral principles are in the order of ends, whereas institutional principles are in the order of means (Maclure 2014, 11). From this perspective, it is easy to understand that the means (that is, the principles of separation and neutrality) cannot be considered superior to the moral ideal pursued by secularism, which is to preserve equal respect for individuals, whatever their beliefs, in the name of justice and inclusion. This position disqualifies, from the outset, any restriction on the wearing of religious symbols unless such a limitation is compatible "with the principle of respect due to all or [to] protect the freedom of conscience and religion of others" (12).

The interpretation made by Maclure and Taylor (2010) is the one that has taken hold in Canada. Since the 1970s, the policy of multiculturalism,

one of the objectives set out in the preamble to the Canadian Multiculturalism Act, is based on the recognition that "the diversity of Canadians as regards race, national or ethnic origin, colour and religion is a fundamental characteristic of Canadian society."[5] In this spirit, public institutions have a duty to take into account the multicultural character of society, and institutional practices must apply equally to all persons, regardless of their origin. As the jurist Léopold Vanbellingen (2015) points out, neutrality stems from the right to the free exercise of religion (based on the need not to favour one belief over others) and of each person to freely exercise his or her religion. This interpretation of secularism is present in the public debate in Quebec and widely shared in the rest of Canada. It maintains that individuals are allowed to display their religious affiliation even within the public service.

Invoking the value of societal pluralism necessarily implies respecting the individual practices of believers, both in their individual lives and in the context of social interactions. Such practices are clearly not limited to the wearing of religious symbols, but include, for example, dietary preferences, the right to prayer, and respect for religious holidays outside of the civic calendar (which, as we know, is derived from the Christian tradition). The Canadian legal framework upholds this interpretation of secularism. The Canadian Charter gives constitutional status, even pre-eminence, to the principle of freedom of religion, whereas the notion of secularism is never mentioned. In fact, freedom of religion is the first of the fundamental freedoms enumerated in section 2(a) of the charter, followed by the freedoms of thought, belief and opinion, and peaceful assembly and association. And this legal framework applies to all laws enacted by the provinces. Legal scholars have concluded that the scope of religious freedom is broad and can only be limited if it meets the criteria set out by the Supreme Court of Canada – namely, that the objective identified by the law must be real and pressing and that there is a sufficient degree of proportionality between the objective and the means used to achieve it.

This last aspect has three components: the restriction must be rationally connected to the objective; the restriction must not limit freedom in a way that is unreasonable to achieve the objective; and there must

be proportionality between the effects of the measure limiting a right and the objective of the legislation. The guidelines for interpreting the law, which are based on an assessment of the urgency and proportionality between the objectives and the means with which the effects of a limit are imposed on a fundamental freedom, thus crystallize a certain conception of individual freedoms. In other words, a measure limiting a freedom – in this case, the freedom of religion – could not be based on the need to create a civic environment free of religious symbols on a preventive basis – for example, in order to avoid the multiplication of religious symbols. As sociologist Valérie Amiraux and legal scholar Jean-François Gaudreault-Desbiens (2016, 371) argue, "if the state alleges that a religious symbol poses a threat or harm, it will have to support this allegation with facts."

Moreover, Canadian law links freedom of religion with a specific vision of the right to equality and non-discrimination. This latter right concerns the idea of reasonable accommodation, which seeks to avoid all forms of indirect discrimination, particularly that which could be based on religious grounds. Political scientist Alma Mancilla (2011, 792) provides a cogent summary of this conception:

> The scope of religious freedom has been defined quite broadly in a number of Supreme Court of Canada decisions, some of which are well-known for their effect on the treatment of different religious denominations, particularly minority ones. In *R. v Big M. Drug Mart,* for example, the Supreme Court defined freedom of conscience and religion as including both freedom from coercion and restraint and the right to display one's beliefs and practices, establishing as the only limitations those that are necessary to preserve public order, health or morals, and the fundamental rights and freedoms of others. The same judgment also rules on the equality that must accompany this freedom, as well as on the pluralistic nature of Canada in matters of religion. Finally, in the domain of religious freedom, the Court gives precedence to the subjective criterion of the sincerity of one's personal belief over the objective criterion of the de facto existence of a precept recognized by all members or authorities of a religious denomination.

The vision that has emerged in the courts is compatible with, and even stems directly from, recognition of the pluralism of affiliations and preferences enshrined in the policy of Canadian multiculturalism. According to this conception, the state has a duty to protect religious beliefs. It must safeguard the freedom of conscience and religion of all citizens, regardless of their convictions. It cannot exclude anyone from the public service on this basis as long as public order and safety are guaranteed. The Canadian state has never explicitly articulated its secular character. For this reason, guidelines relevant to this secular character are defined through law. These guidelines ensure that practices concerning reasonable accommodation prevail since they are framed legally and are incompatible with any prohibition on the wearing of religious symbols in the absence of real and urgent objectives (Lavoie 2016, 338). The Canadian state, both federally and provincially, seems de facto to be secular insofar as it has never been dominated by the church, and has been able to preserve its autonomy with respect to religions (Milot 2004, 34–42). The separation of church and state, and the independence of the state from religions, are well established, which explains why the emphasis is placed on the preservation of freedom of conscience and religion, given that one of the defining characteristics of Canadian society is recognition of its pluralistic nature.

In sum, when we consider the four general principles that make up secularism, freedom of conscience and religion and the substantive equality of citizens are at the top of the hierarchy (as opposed to the principle of formal equality, according to which the law applies to all citizens consistently and in the same manner). This interpretation holds that the state cannot force anyone within the public service to renounce his or her deepest beliefs. These beliefs may be displayed in the practices, behaviours, dress, food preferences, and so on that flow from these convictions. From this principle stems the obligation of reasonable accommodation, which is the view embraced by classical liberal and pluralist thinkers, by multiculturalism, by the courts, by a majority of Canadian citizens, and by many people concerned with the preservation of individual rights. It is on these grounds that opposition has arisen to Bill 21's provisions on prohibiting religious symbols, in the same way

that opposition arose to Bill 62 and its requirement to provide and receive public service with the face uncovered (Iavarone-Turcotte 2017).

Conclusion

Where Bill 21 is concerned, we suggest it is problematic to present secularism in Manichean either/or terms, drawing a line between correct and incorrect conceptions of secularism. We note that political and social actors, as well as many intellectuals and academics, tend to frame the debate in these terms. They position themselves and enter the field of struggle that secularism has become. The weapons they deploy on this battlefield include praising their own position and seeking to disqualify the position of their adversaries in one way or another. The clash of views on secularism has led to such vehement outbursts that people supporting Bill 21 are sometimes assumed to support discrimination and, by association, racism. Accusations along these lines are sometimes made by reasonable people in positions of authority. For example, Prime Minister Justin Trudeau's reputation was affected by the blackface episode during the October 2019 federal election campaign. Jack Jedwab (2019), the president of the Association for Canadian Studies and the Metropolis Institute, observed at the time: "Both Scheer's and Singh's criticisms of Trudeau and the related concerns about the spread of racism would be more credible if they denounced the discriminatory aspects of Bill 21 rather than bowing to the Quebec premier's demands and looking the other way on what Legault insists is a strictly provincial matter." The former leader of the New Democratic Party Tom Mulcair (2020) made a similar conflation in the pages of *Maclean's*. *Calgary Herald* columnist Catherine Ford (2019) claimed that Bill 21 "stands as an offence to the very decency of Canada, and boots minority rights and freedom of religion back into the dark ages."

Nevertheless, as long as religious beliefs are not presented from the outset in terms of a struggle for personal emancipation from what is seen as obscurantism, secularism can be understood in different ways. Secularism has different meanings and is therefore a complex idea. Moreover, the constitutive principles from which the practical applications of secularism are derived vary from one state to the next (Kuru

2009; Cady and Hurd 2010). We maintain that Quebec laicity is made up of four main principles that are clearly stated in the Act Respecting the Laicity of the State. However, the Quebec state endorses a vision of secularism that gives precedence to the principle of the neutrality of the state. The prohibition on the wearing of religious symbols by public sector employees in certain categories of employment is justified by the need to ensure that this neutrality is not only effective but is also perceived as such by the people coming into contact with these symbols. This approach is legitimate, coherent, and compatible with the other principles of secularism.

The opponents of Bill 21 adhere, for the most part, to a vision of secularism that gives precedence to the principle of freedom of conscience and religion of individuals. This perspective actually reverses the hierarchy of principles enshrined in Bill 21 in a way that is compatible with the self-image of Canadian society and that has culminated in the adoption of multiculturalism and its inclusion in the Canadian Charter. This vision is shared by many activists working in the field of human rights protection. It is also a legitimate approach, consistent with the general principles of secularism. Similarly, we are witnessing a debate that refers to different conceptualizations of political liberalism and its relationship to fundamental rights. In a study of the attitudes of Canadians and Quebeckers towards religious symbols displayed by religious minorities, the authors conclude that, in Quebec, upholding liberal values is associated with greater support for restrictions on the wearing of religious symbols by minority groups, whereas, in the rest of Canada, upholding liberal values is accompanied with opposition to such restrictions. Thus, "the difference between Quebec and the rest of Canada in the relationship between liberal values and support for restrictions appears to be more of a fundamental cultural difference – a history of two liberalisms" (Turgeon et al. 2019, 261). Canada's history is full of such misunderstandings and mutual incomprehension.

The courts will have an opportunity to rule on the validity of certain provisions of the Act Respecting the Laicity of the State. We can always hope that judges will show some sensitivity to another kind of diversity found within Canada – namely, the presence of Quebec, a distinct society. Indeed, Quebec, as a society, shares a different reading of the principles of

liberalism, and the practical arrangements through which the state affirms its neutrality are derived from this reading. These arrangements may diverge from the multicultural doxa that informs Canadian minds and law.

Notes

1 These latter categories were stated by the philosopher Georges Leroux in his interview with Mathieu Bélisle (2018).
2 Act Respecting the Laicity of the State, SQ 2019, c. 12.
3 Act to Foster Adherence to State Religious Neutrality and, in Particular, to Provide a Framework for Requests for Accommodations on Religious Grounds in Certain Bodies, SQ 2017, c. 19.
4 Charter of Human Rights and Freedoms, RSQ 1977, c. C-12; Canadian Charter of Rights and Freedoms, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c. 11.
5 Canadian Multiculturalism Act, RSC 1985, c. 24 (4th Supp.).

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