

## Governing the Face Veil: Quebec's Bill 94 and the Transnational Politics of Women's Identity

Meena Sharify-Funk

Numéro 43, 2011

Miscellaneous: International Perspectives on Canada  
En vrac : perspectives internationales sur le Canada

URI : <https://id.erudit.org/iderudit/1009458ar>  
DOI : <https://doi.org/10.7202/1009458ar>

[Aller au sommaire du numéro](#)

Éditeur(s)

Conseil international d'études canadiennes

ISSN

1180-3991 (imprimé)  
1923-5291 (numérique)

[Découvrir la revue](#)

Citer cet article

Sharify-Funk, M. (2011). Governing the Face Veil: Quebec's Bill 94 and the Transnational Politics of Women's Identity. *International Journal of Canadian Studies / Revue internationale d'études canadiennes*, (43), 135–163.  
<https://doi.org/10.7202/1009458ar>

Résumé de l'article

Au cours de la dernière décennie, un nouveau modèle de contestation culturelle a commencé à se manifester dans une gamme de contextes « occidentaux » qui ont reçu une immigration musulmane importante. Depuis la Belgique et la France jusqu'au Québec (Canada), les sujets de préoccupation concernant l'intégration et l'acculturation des collectivités de minorité musulmane ont amené à se préoccuper davantage des symboles associés à l'extrémisme et à des pratiques jugées menaçantes pour les droits des femmes. La question du voile facial porté par les Musulmanes comme le niqab et la burqa s'introduit en force dans les débats politiques et fait l'objet de campagnes visant à réaffirmer les valeurs fondamentales en définissant les moyens, appropriés et inappropriés, par lesquels les femmes construisent et expriment leur identité. Se servant du projet de loi 94 du Québec comme d'une étude de cas illustrant des modèles que l'on retrouve également dans d'autres pays, le présent article explore les politiques transnationales de l'identité des femmes qui sous-tendent les efforts actuels pour « régir » le port du voile facial. On portera une certaine attention aux précédents internationaux qui ont inspiré les promoteurs de la législation visant à refuser aux porteuses du voile facial des services gouvernementaux essentiels (notamment l'emploi dans la fonction publique, les possibilités d'éducation et les soins de santé); on portera également attention aux coalitions contre le projet de loi 94 qui ont pris naissance au sein du Québec et dans le contexte canadien plus vaste.

***Governing the Face Veil: Quebec's Bill 94  
and the Transnational Politics of Women's Identity***

**Abstract**

*During the last decade, a new pattern of cultural contestation has emerged in a range of "Western" contexts where there has been significant Muslim immigration. From Belgium and France to Quebec, Canada, anxieties concerning the integration and acculturation of Muslim minority communities have led to increased preoccupation with symbols associated with extremism and with practices deemed threatening to women's rights. Muslim face veils such as the niqab and burqa now figure prominently in political debates, and are the subject of campaigns to reassert fundamental values by defining appropriate as well as inappropriate ways for women to construct and express their identities. Using Quebec's Bill 94 as a case study that illustrates patterns also evident in other countries, this article explores the transnational politics of women's identity behind current efforts to "govern" the face veil. Attention will be given to international precedents that have inspired proponents of legislation denying face-veil wearers essential government services (including public employment, educational opportunities, and health care), as well as to surprising anti-Bill 94 coalitions that have emerged within Quebec and in the larger Canadian context.*

**Résumé**

*Au cours de la dernière décennie, un nouveau modèle de contestation culturelle a commencé à se manifester dans une gamme de contextes « occidentaux » qui ont reçu une immigration musulmane importante. Depuis la Belgique et la France jusqu'au Québec (Canada), les sujets de préoccupation concernant l'intégration et l'acculturation des collectivités de minorité musulmane ont amené à se préoccuper davantage des symboles associés à l'extrémisme et à des pratiques jugées menaçantes pour les droits des femmes. La question du voile facial porté par les Musulmanes comme le niqab et la burqa s'introduit en force dans les débats politiques et fait l'objet de campagnes visant à réaffirmer les valeurs fondamentales en définissant les moyens, appropriés et inappropriés, par lesquels les femmes construisent et expriment leur identité. Se servant du projet de loi 94 du Québec comme d'une étude de cas illustrant des modèles que l'on retrouve également dans d'autres pays, le présent article explore les politiques transnationales de l'identité des femmes qui sous-tendent les efforts actuels pour « régir » le port du voile facial. On portera une certaine attention aux précédents internationaux qui ont inspiré les promoteurs de la législation visant à refuser aux porteuses du voile facial des services gouvernementaux essentiels (notamment l'emploi dans la fonc-*

*tion publique, les possibilités d'éducation et les soins de santé); on portera également attention aux coalitions contre le projet de loi 94 qui ont pris naissance au sein du Québec et dans le contexte canadien plus vaste.*

On 24 March 2010, Minister of Justice Madame Kathleen Weil introduced Bill 94 to the National Assembly of Quebec, a piece of legislation proposed in order to “establish the conditions under which an accommodation may be made in favour of personnel members of the Administration or certain institutions or in favour of person to whom services are provided by the Administration or certain institutions” (Parliament of Quebec, National Assembly, 2). The stated purpose of this Bill was to clarify standard practices associated with the provision of public services, for exemption from this ruling might be denied. The principled grounds for rejecting all forms of face covering is presented in section 4 of the Bill, which cites Quebec’s Charter of Human Rights and Freedoms “as concerns the right to gender equality and the principle of religious neutrality of the State whereby the State shows neither favour nor disfavour towards any particular religion or belief” (ibid. 4). The pragmatic basis for the new ruling is provided in section 6, which contains both the clause stating that individuals must “show their face during the delivery of services” and the ruling that mandates a denial of accommodation requests when considerations of “security, communication or identification warrant it” (ibid. 5). If passed, Bill 94 would require that all employees of the government and public services show their face at all times, and that all people making use of government or public services (including public and some private schools, health care services, social services, and childcare services) would similarly be expected to have uncovered faces at the time of service delivery. Although the principal targets of the legislation are not mentioned in the text of the Bill, the legislation is generally understood to be aimed at Muslim women who wear the *niqab* (full-face veil), and would essentially prohibit *niqabi* women from accessing public services.

While in the immediate wake of the tabling of the legislation there seemed to be overwhelming popular and political support for the Bill, a number of religious groups, academics, and civil society organizations have voiced strong criticism. Members of the public were invited to submit briefs to the government, and by the May 7 deadline over 60 submissions had been made (Dougherty, “Bill 94”). Public hearings commenced on May 18 and, while originally scheduled to last for 3 weeks, were suspended on May 20. While the official reason given for suspending the hearings “was the need to turn the committee’s attention to the more pressing matter of parliamentary ethics,” observers have suggested the government began to reconsider the Bill after criticism and opposition voiced during the hearings (ibid.). The absence of a specific, declared date for renewed hearings has left the future of the legislation in question.

Although the ultimate fate of Bill 94 remains to be determined, the dynamics associated with the Bill thus far reveal a great deal about the contemporary cultural politics of Quebec. As the first substantive action of the Charest government on issues of majority-minority relations since the Bouchard-Taylor inquiry into reasonable accommodation, Bill 94 signals continuing tension surrounding notions of visible cultural difference, particularly with respect to Islam. While many aspects of the scenario are specific to Quebec, the Bill 94 debate nonetheless provides a window into a pattern of identity construction, boundary demarcation, and identity conflict that has parallels in many contemporary North American and European contexts.

Whatever the outcome, Bill 94 raises profound questions concerning identity, belonging, cultural boundaries, and the challenges of community building in a time of renewed insecurity. Is a new symbolic politics of "otherness" and exclusion reshaping the contours of the public sphere, or is the current salience of themes pertaining to an "Islamic other" a passing phenomenon? To what extent are cultural and political identities in Quebec and other "Western" contexts being reconstructed in relation to a feared Muslim "other"? Does the new preoccupation of some feminists with socially marginal but symbolically potent expressions of conservative Islamic gender relations constitute a reorientation or change in the character of feminism itself, or merely a contingent and largely defensive shift in emphasis? Given the very limited extent to which the Bouchard-Taylor Commission—a highly visible project of officially sanctioned intercultural dialogue—changed the character of popular discourse in Quebec, what other means of advancing inclusive community are possible at a time when the defence of cultural boundaries has become a salient political theme?

### **Theoretical Context: Boundary Maintenance and Cultural Community**

In *The Symbolic Construction of Community*, Anthony P. Cohen observes that human collectivities construct their notions of community and in-group solidarity symbolically, relying heavily on "contrasts" with other groups to establish a sense of uniqueness. Community, Cohen writes, "expresses a *relational* idea: the opposition of one community to others or to other social entities" (12). Furthermore, consciousness of community is inescapably associated with the perception of *boundaries*.

As the expansive literature on ethnicity and nationalism attests (Smith; Hutchinson and Smith), deep differences in values and beliefs are not an essential prerequisite for identity-based conflict dynamics. Actual differences in cultural practices may play a role in exacerbating tensions, yet it is the *symbolic meaning* of divergent practices rather than the practices themselves that shape their significance for intergroup polarization and conflict mobilization. Symbolic meaning, moreover, is determined by in-group narratives and

categories more often than through intergroup communion and dialogue. As Cohen writes,

[A]lmost any matter of perceived difference between the community and the outside world can be rendered symbolically as a resource of its boundary. The community can make virtually anything grist to the symbolic mill of cultural distance, whether it be the effects upon it of some centrally formulated government policy, or a matter of dialect, dress, drinking or dying. The symbolic nature of the opposition means that people can “think themselves into difference.” (117)

While other authors are more optimistic than Cohen concerning the possibility that encounters between communities might lead to mutual learning and transformation of meaning (Inayatullah and Blaney; Kymlicka and Bashir), rhetoric concerning the encroachment of an “other” on cultural boundaries has undeniable mobilization potential in a wide range of conflict situations. The more visible the apparent differences, the greater the potential challenge for those who would aspire to build bridges, reconstruct meanings, and establish new, cross-cutting bonds for a more inclusive communal whole.

A variety of factors has given renewed prominence to identity-based boundaries and divides in recent years, in Canada as well as in many other national contexts. The combined forces of globalization, mass migration, and post-9/11 security politics have created an atmosphere in which longstanding debates about topics such as multiculturalism, rights, and liberal democratic norms (Kymlicka and Bashir; Levey and Modood; Taylor; Stein) have taken on a new edge. Increasingly, visible manifestations of cultural difference evoke heightened concern not just about physical security, but also about the security of a larger sense of “self” that is now threatened by an influx of cultural, ethnic, and religious “otherness.” Such identities are now subject to securitization (Buzan, Waever, and de Wilde) with problematic consequences for visible minorities and immigrant groups as partisans of “traditionally authentic” national culture seek to fortify communal boundaries, and as rhetorically targeted minority groups increase their own insularity and defensiveness in response to increasing scrutiny (Moghdessi, Rahnama, and Goodman). As Cohen would predict, reassertion of an idealized “we” necessarily presupposes sharp contrasts with the qualities and practices of an antithetical “they,” inviting reciprocal practices on the part of those placed in the outsider camp.

In Canada, the renewed salience of “we”/“they” contrasts in public life is not limited to debates surrounding such unsettling matters as the potential for homegrown terrorism, or to more traditional mechanisms of boundary maintenance with the United States. Use of intercultural contrasts has also become apparent in conversations concerning immigrant integration and the

rights and responsibilities associated with citizenship. Although a majority of national media outlets still appear to favour an inclusive, multicultural, and multiracial understanding of the contemporary Canadian “we,” conceptions of Canadian identity are nonetheless being reconfigured in subtle ways that underscore stark differences between liberalism, modernism, individual rights, and gender equality on the one hand, and the values of conservative or radical Muslims on the other. In many respects the discourse of women’s rights has itself become securitized through its frequent invocation in relation to foreign war (e.g. Canadian troops in Afghanistan) and threats posed by religious extremists (Hunt and Rygiel). Whereas traditional feminism was frequently regarded as a subversive challenge to the under-representation of women in public life, feminist claims to gender equality are now being deployed in a new context to reinforce fundamental distinctions between “us” and “them.” Nowhere in Canada is this dynamic more evident than in Quebec.

Debates over veiling in Quebec provide fascinating opportunities to explore the contestation of identity in a setting where both majority and minority populations experience identity insecurity. Even as members of the Quebecois community construct identity vis-à-vis both the Canadian Anglophone majority and new immigrant communities (whose neo-traditional mores evoke a “they” contrast not just from abroad, but also from Quebec’s own conservative cultural past), minority communities—especially visibly observant Muslims—face the daunting task of attaining membership within a new “we” without severing a sense of authenticity and lived connection to their communities of origin. The fact that Islam has become a new “they” for many in the dominant culture makes the challenge of belonging all the more difficult.

In exploring Bill 94 as a political initiative driven more by “we”/“they” identity contrasting and identity insecurity than by pragmatic policy concerns, this paper seeks insight into dynamics of intercultural communication (conducted more often in monologue than in a dialogical format) that are by no means unique to Quebec or to Canada at large. These dynamics demonstrate not only the significant potential for polarization in contemporary, culturally diverse industrialized democratic polities, but also suggest the possibility of surprising new alliances that contest the boundaries of dominant symbolic conceptions of community and invite new efforts to imagine a more inclusive and flexible “we.” The present analysis therefore seeks to interpret controversies and coalitions surrounding Bill 94, with the intent not only to highlight the fissures between different communities and their manners of constructing cultural identity, but also to illuminate ways in which the terms of debate might be altered or reframed in ways that foster shared identity and inclusive community.

## **Historical Background: The “Reasonable Accommodation” Debate and the Politics of Veiling**

The introduction of Bill 94 and the varied responses the Bill has evoked cannot be understood in a vacuum. While broader international debates about the place of Islam and Muslims in Western societies undeniably affect opposing camps within Quebec, the specific terms of debate in Quebec must also be understood in relation to the province's unique history and experiences pertaining to secularism, interculturalism/ multiculturalism, and gender equality.

Owing to the legacy of Anglophone conquest, multiculturalism has always been contested in the province of Quebec. Although originally intended as a federal policy that, in combination with bilingualism, would preserve the long-term integrity of the Canadian state, acceptance of multiculturalism has been tempered by anxieties about gradual erosion and eventual erasure of Francophone identity and culture within the context of a predominantly Anglophone country with a steady influx of diverse immigrants (Venne). Preoccupation with *pure laine* (literally, “pure wool”) Quebecers' insecure minority status within Canada has therefore generated considerable ambivalence about the broader implications of multicultural policy and has at times reduced empathy for other Canadian minority groups.

In addition to the insecure cultural status of Quebecers within the Canadian federation, close historic ties with France are an additional influence on attitudes toward minority cultures in general, and toward Islam and Muslims in particular. Two specific factors inherent in the modern French experience, and articulated in relation to the unique circumstances of Quebec, contribute to the formation of perceptions and value claims behind current reasonable accommodation controversies. The first factor is *laïcité*, the French conception of a strongly secular state and public culture<sup>1</sup>; the second is the French colonial presence in Muslim North Africa, and the subsequent post-colonial experience of economically driven North African migration to France proper.<sup>2</sup> While both are products of historical developments subsequent to Anglophone predominance in Canada and the eclipse of “New France” as a political project, the persistence of a common Francophone cultural and intellectual sphere renders core constructs of French culture and history consequential (though by no means determinative) for Quebec.

Despite geographic distance, the French experience and example continues to resonate in Quebec. While the secular-religious dynamic within Quebec was largely settled in favour of secularism during the mid-twentieth-century “Quiet Revolution,” formulations of *laïcité* that reflect France's more tumultuous struggle for a secular state are present alongside less assertive forms of secularism. French notions of a unifying secular ethic have particular appeal among those who fear that new immigrants, especially Muslims,



may reverse the historically recent political marginalization of religious institutions as well as significant gains in gender equality. Attunement to current French realities also heightens anxiety about rapid demographic change and culture gaps, while providing concrete examples of state policies intended to reassert a common, secular civic culture. Public controversy in Quebec surrounding Muslim head coverings, for example, dates not to the post-September 11 era, but rather to the 1990s; Quebec-based incidents associated with the expulsion of girls from school for wearing headscarves followed a pattern similar to previous events in France.

A series of provincial and federal events have underscored and exacerbated deeper questions concerning the security of Quebecois identity, making this debate especially charged in the last decade. A 2002 Supreme Court ruling, for instance, to overturn a decision made by the council of commissioners of the Commission Scolaire Marguerite-Bourgeoys and allow Gurbaj Singh Multani to wear his kirpan to school, was perceived by some Quebecers as a federal government attempt to impose multiculturalism on Quebec, and prompted increased media attention to the issue of reasonable accommodation (Bouchard and Taylor, "Building" 33, 50). In 2005–2006, there was a dramatic increase in media coverage of "reasonable accommodation" issues: many citizens were concerned about the transition to frosted windows at a YMCA located in a Hasidic Jewish community, unsettled by sensationalistic and inaccurate coverage of Muslim ritual prayers at a sugarhouse, and provoked by various incidents in which *hijab*-wearing Muslim girls were barred from participating in sporting events. The controversies came to a head in January 2007 when the town council of a small, homogeneous village named Hérouxville announced a "Life Standards" act, declaring that a range of extreme practices—many of them, such as stoning women and wearing face veils, stereotypically associated with Muslim radicalism—would not be accepted within the community.

### ***The Bouchard-Taylor Commission***

In light of this increasingly polarized media coverage and the prospect that the Action Démocratique du Québec (ADQ) party's anti-immigrant policies could lead to significant gains in impending elections, Premier Charest sought to defuse the "reasonable accommodation crisis" by appointing two well-known public intellectuals, Charles Taylor and Gérard Bouchard, to chair a commission to investigate "accommodation practices related to cultural difference" in early 2007. While Bouchard and Taylor would later conclude the so-called "crisis" to be largely a "crisis of perception," they noted that the wave of accommodation cases in the media "clearly touched an emotional chord among French-Canadian Quebecers in such a way that requests for religious adjustments have spawned fears about the potential loss of the most valuable gains of the Quiet Revolution, in particular gender



equality and secularism” (“Building” 18). Many Quebecers also expressed fear that reasonable accommodation requests might undermine the intercultural integration model that the province has adopted as an alternative to federal multiculturalism. A broader identity “*malaise*” also shaped sentiments regarding reasonable accommodation; fear for Quebec’s status as a French-speaking minority in English North America and tension between Montreal and “the regions” were at the heart of the debate (ibid. 17, 33).

Although the commission was set up to investigate the management of cultural differences, the overwhelming majority of cases raised in debate have to do with *religious* and not merely cultural diversity. In their Consultation Document, Bouchard and Taylor state: “In a word, it is, in particular, the management of diversity, especially religious diversity that appears above all to pose a problem” (“Seeking” 3). Religious groups and religious practices and symbols, then, often became the centre of debate, with concerns about Muslims particularly prominent.

In the wake of 11 September 2001 and the resulting suspicion of Muslims worldwide, Quebec’s relatively small community of Muslims received great attention. Particular Muslim practices—most notably the *hijab* and requests for prayer rooms—drove much of this attention, leading many Muslim groups to explain their traditions publicly in an effort to correct misconceptions and defend the place of Muslims in a pluralist Quebec. Acknowledging the salience of cases involving Muslim women in their report, Bouchard and Taylor note that it is often Muslim women’s attempts to integrate that make them more visible and therefore vulnerable to Islamophobia. They argue that “the way to overcome Islamophobia is to draw closer to Muslims, not to shun them. In this field, as in others, mistrust engenders mistrust. As is true of fear, it ends us [sic] feeding on itself” (“Seeking” 235).

After accepting submissions from various groups and holding public consultations, Bouchard and Taylor produced a lengthy report and series of recommendations for the province in May 2008, rooted in a vision of “open secularism.” Their recommendations included demands to better define terms such as “interculturalism” and “secularism”; to promote employment opportunities for immigrants more effectively; to increase representation of underrepresented groups in government and public services; to combat anti-Semitism, Islamophobia, and racism; and, importantly for Bill 94, to make government spaces religiously neutral. To this end, Bouchard and Taylor recommended that the crucifix be removed from the National Assembly, and that certain public servants in positions of authority, such as judges, not be allowed to wear symbols of religious expression.

### ***Post-Bouchard-Taylor Developments***

The Bouchard-Taylor report received mixed reactions, and although the report spelled out a series of recommendations, the government showed little enthusiasm to follow up on any of them. In effect, Bill 94 was the first piece of legislation related to reasonable accommodation tabled since the Commission's completion, aside from a motion in Parliament (accepted by all parties) not to remove the crucifix from the National Assembly, contrary to the report's recommendations. Although the Commission served to dampen debate about minority communities for a time, subsequent events have served to reignite and perpetuate the debate in largely unchanged terms. In November 2009, the story of Naema Ahmed, an Egyptian immigrant who was asked to leave her French class in Montreal when she refused to remove her *niqab* (and was later expelled a second time after enrolling in another school), was in April 2010 followed by a similar story of another *niqabi* woman. These events ignited a polarizing debate about head coverings; Chantal Hébert maintains that Quebec's French media played a decisive role in shaping and fuelling this debate. On one side of the debate, many argued that in demanding a right to wear the *niqab*, largely depicted as a symbol of oppression, Muslims had gone too far and that the government was right to put an end to accommodation demands, a position that most Quebecers seemed to support. On the other side, however, critics pointed out problems with focusing too narrowly on the practice of a small minority of Muslim women, and argued that prohibiting *niqabi* women from accessing public services would only serve to isolate them, making integration more difficult.

The prevalence of anti-*niqab* public sentiment provided a favourable environment for introducing Bill 94, although Madame Weil, who introduced the Bill, maintains that the legislation had been in the works since November 2009 and was not merely an effort to capitalize on developments in the domain of public opinion. However, she has acknowledged that "the resurgence of reasonable accommodations certainly didn't hurt her cause, and neither have the poll numbers" (Patriquin and Gillis 21).

According to the results of a recent Angus Reid poll, widely cited in the media, anti-*niqab* sentiment in Canada extends far beyond Quebec. While 95 percent of Quebecers support the Bill, 75 percent of non-Quebecers likewise support the Bill (Patriquin and Gillis 20). Support outside of Quebec is highest in Alberta (82 percent) and Ontario (77 percent) (ibid. 22). In Atlantic Canada, 73 percent of people supported the Bill, while BC saw 70 percent approval, and Manitoba and Saskatchewan had the lowest rates of support at 65 percent (Scott, "Majority"). The poll also found that men were more likely to support the Bill than women (83% vs. 77%), and people over 55 were more likely than those under 35 (86% vs. 69%). The vice president of public affairs

for Angus Reid, who conducted the poll, noted that it is very rare to have such a high level of public support for a government measure (Scott, "Majority").

### ***International Cases of Face-Veil Bans***

While Bill 94 is very much a product of the specific Quebec milieu, it is also part of larger international debates about the place of Muslims in the "West," about "War on Terror" security concerns, and about the place of religious expression in secular states—debates that have played out in different countries across Europe, as well as in various Muslim-majority countries. In late April 2010, Belgium's Chamber of Representatives became the first Western European assembly to impose a nationwide ban on full-face veils in public, despite the fact that only 30 Belgian women are estimated to wear the *niqab*. Other Belgium municipalities, such as Brussels, already had local anti-veil legislation, "[b]ut legislators explained that they wanted to 'send a signal' to fundamentalists Muslims and preserve the dignity and rights of women" (Cody A06). Similar proposals have been introduced in the Netherlands and Italy. Although less certain to pass, both countries also have local bans on face veils in effect. In Switzerland, where the construction of minarets was banned in November 2009, the Justice Minister also recently suggested that the government might use similar administrative powers to forbid face veils, while exempting Persian Gulf tourists (Cody A06). In July 2010, 183 Spanish parliamentarians voted to reject a proposed face-veil ban while 162 supported the proposal or abstained, though the Socialist government said it supports a ban in government buildings. The Bill was tabled by the opposition Populist Party, framed as a measure to protect women's rights ("Spain's legislators").

In France, the country with the largest Muslim population in Western Europe, issues of secularism, identity, and the *hijab* have dominated public debate for years, in a tone sometimes mirrored in Quebec (although Bouchard and Taylor go to great lengths to contrast France's more rigid version of secularism with Quebec's "open secularism" model). On May 11, France's National Assembly also voted to declare full-face veils "'contrary to the values of the republic,' which legislators described as the first step toward enacting legislation similar to Belgium's" (Galloway and Taber). On July 13, France's lower house of parliament voted to ban the full-face veil in public, with 336 voting in favour of the bill, and only one voting against. Because the bill has received widespread public and political support (only the Socialist Party has dissented, offering a counter-proposal to limit the ban to public buildings), it is expected to be approved by the Senate in September ("Face veil ban approved"). Anyone caught wearing the full-face veil will be fined \$190, and will be required to enrol in a "citizenship course."<sup>3</sup>

Despite the existence of broad support for a French *niqab* ban, objections have also been voiced. Many human rights groups, including Amnesty

International ("Crowd protests"), have come out against the Bill, and some legal scholars expect the Bill may not withstand a constitutional challenge ("French Deputies"). It is estimated that less than 2000 women in France wear the face veil. In addition to various bans in different European countries stoking the fires of Islamophobia and leading to increasing hostility and resentment of Muslims (Galloway and Taber), Muslims themselves are often divided on the issue, with some worried about the image of Islam conveyed by wearers of the *niqab*, and others who argue that anti-*niqab* laws could in fact liberate some women from the *niqab* (Malik).

Both India and Egypt, non-European countries with sizeable Muslim populations, have also passed legislation limiting the wearing of the *niqab*. In January 2010, the Supreme Court of India ruled that burqa-clad women cannot be issued voter ID, rejecting the argument that Islam required them to wear the veil (Mahapatra).<sup>4</sup> In Egypt, where an increasing number of veiled women and a growing population who have turned to more conservative interpretations of Islam have come into conflict with the more moderate, officially sanctioned brand of Islam, a number of state attempts to ban the *niqab* have recently captured headlines. The most recent of these occurred in January 2010, when the government banned students from wearing the *niqab* while writing exams and students protested by arguing that the ban not only infringes on their religious rights, but also "supports rape and sexual harassment" ("Egypt court"). Likewise, on 20 July 2010, Syria banned students from wearing the *niqab* while attending university in order to promote "moderation."<sup>5</sup>

## Responses to Bill 94

### *Support for the Bill: Central Arguments*

As is perhaps to be expected, responses to Bill 94 have been mixed. A number of important political leaders, public figures, lawyers, academics, and religious groups have come out in favour of the Bill, while polls suggest that an overwhelming majority of the public is also supportive of the legislation. Those who support Bill 94 have grounded their rhetoric around two central themes: the need to be "reasonable" and set limits to accommodation practices for purposes of security and identification; and the need to protect "Quebec values," especially gender equality and secularism. Subsidiary to these central themes, the following arguments have also been advanced in support of the Bill:

**The Need for "Reasonable" Limits to Accommodation Practices:** As the Bill itself stipulates, supporters of the Bill have most often framed their position as a response to the need to set "reasonable" limits to accommodation practices, often depicting the legislation as a kind of reasonable compromise, one that accounts for security and identification concerns, and legitimate accommodation requests, without constituting a complete ban on the *niqab*

or other religious symbols as has been sought in some European countries. Justice Minister Weil, who introduced the Bill, described it as “the Quebec government’s first foray into legislating what can and cannot be reasonably accommodated.” She further described the Bill as a “‘common sense piece of legislation’—a happy medium between what she calls the ‘pur et dur secularism of France and the Parti Québécois’ and carte blanche for every religious whim and practice in state institutions” (Patriquin and Gillis 21). In the wake of some backlash at the public hearings, Weil again underlined the “reasonable” nature of the government’s position saying: “don’t worry, we are a reasonable society, we are going to have an adult conversation about this” (ibid. 23). This language of sensible compromise is also evidenced in Bouchard, Ignatieff, and Harper’s responses to the Bill. Bouchard, for instance, said that while “the host society has a duty to make all efforts for those immigrants to [accommodate] them... society does not have the duty to [accommodate] you wherever you go” (Scott, “Veiled Threat”). At the federal level, a spokesperson for the Prime Minister’s Office said “the law proposed by the Quebec government makes sense”<sup>6</sup> (Galloway and Taber) while Ignatieff has called the proposed Bill “a good Canadian balance,” noting that accommodation on both sides must be “reasonable” (Galloway and Taber) At a recent public event, he noted: “The Quebec government is trying to make sure that in civic and public spaces that freedom of religion is respected, but at the same time on the other side citizens come forward and reveal themselves when they are demanding public service”<sup>7</sup> (Galloway and Taber).

In conjunction with the idea that Bill 94 is “reasonable” and “balanced,” the practical concerns of security, identification, and communication are frequently mentioned as justifications for requiring individuals to give and receive public services with their faces uncovered. Roksana Nazneen of the Muslim Canadian Congress (MCC), one of the few religious groups to support the Bill, spoke for many with her argument, “You can’t interact with someone who is invisible. We cannot expect our government to provide parallel services to accommodate only a few” (Patriquin and Gillis 22). Nazneen’s comments follow up on an MCC call in 2009 for a nation-wide ban of “‘masks, *niqabs* and the burka in all public dealings,’ suggesting such garments were examples of Saudi-inspired Islamic extremism” (ibid. 23).

Significantly, Mario Conesco, a vice-president of Angus Reid Public Opinion credits the Bill’s framing in relation to security/identification/communication concerns as the reason for the Bill’s widespread public support. Indeed, Conesco suggested that

the breadth of the consensus suggests a turning point: a moment at which Canadians are reaching the limits of our vaunted self-image as tolerant and inclusive. After years of collisions between institutions and the demands of religious minorities, he says, the public portion of

the debate increasingly boils down to matters of basic fairness: why should one group be excused from accepted requirements of security, identification, and communication, while another is not?"

For Consecro support of the Bill is not because Quebec legislation is becoming intolerant, but more because Quebec legislation is framed in practical matters of security and identification, instead of attacking one religious minority (ibid. 22).

**Protecting Quebec's Values:** Although the Bill was presented as a response to security, communication, and identification concerns, a significant portion of public debate about the Bill has revolved around questions of gender equality and secularism, two principles seen to be paramount Québécois values, which have frequently driven the debate on reasonable accommodation in the past. Politicians both within and outside of Charest's government have supported the Bill on these grounds (Haque and Bullock 1). Charest, for instance, says the law "reflects his government's commitment to 'open secularism'" but "[t]he *niqab* and burka are considered unacceptable in part because they interfere with security, identification and communication" (Hamilton; Galloway and Taber). Outside of Charest's government, Saguenay Mayor Jean Tremblay said he supports a ban of the *niqab* in public services, while PQ leader Pauline Marois has called for a complete ban on religious symbols in public institutions, including the *hijab* (Galloway and Taber).

Indeed, Charest described the Bill as "a matter of 'drawing a line' to defend Québec values... [which] follows a policy Mr. Charest's government introduced in 2008 requiring new immigrants to sign a declaration promising to learn French and respect Québec's 'shared values'" (Hamilton, "Cultural Insecurity"). Interestingly, Charest has used Bouchard-Taylor's language of "open secularism" to justify the legislation (Galloway and Taber).

Perhaps the biggest flashpoint for debate surrounding the Bill, however, is the argument that the Bill is needed to help uphold the Québécois value of gender equality. This argument is rooted in the assumption that the *niqab* is indicative of women's oppression, even though the Bill does not make specific mention of the *niqab*. Minister for the Status of Women Christine St-Pierre, who helped draft the Bill, has called *niqabs* "ambulatory prisons," and said *niqabs* and burkas are "an attack on women's rights [and] unacceptable in our society" (Patriquin and Gillis 23). Similarly, PQ immigration critic Louise Beaudoin said religious head coverings are an example of the "submission of women, of regression, and a subjugation of all our freedoms" (ibid. 21). Elsewhere, articles have claimed that "[s]ome feminist groups have applauded the move, saying the garments are symbolic of the oppression of women" (Galloway and Taber), while National Post writer Don Martin said that "keeping women covered head-to-toe is a clear affront to gender equality in Canada wrapped in obvious elements of religious extremism."



### ***Opposition to the Bill: Central Arguments***

Compared to the arguments advanced in support of Bill 94, groups and individuals that have opposed the Bill have used a much wider range of critiques. They have challenged the Bill's constitutionality, and have criticized its ramifications for religious freedom and gender equality, its negative effect (actual if not intended) on *niqabi* women, and its apparent dependence on Islamophobic sentiment (which, critics suggest, is implicated in the Bill's widespread popularity). Those who have voiced strong opposition to the Bill comprise interesting coalitions of sometimes surprising figures, ranging from separatist politicians to Women's Rights groups, Jewish groups, lawyers, and a range of academics.

**Violation of Charter Rights:** Perhaps the strongest and most frequently mentioned argument against Bill 94 is the challenge that the Bill constitutes a violation of the rights stipulated in the Canadian Charter of Rights and Freedoms, the Quebec Charter of Human Rights, and the Universal Declaration of Human Rights. Most frequently, groups have mentioned that the Bill is a violation of the right to freedom of religion, expression, and conscience, while some have also pointed out that the Bill violates women's rights, and compromises conceptualizations of "equality," creating a hierarchy of rights. Based on these challenges to the Bill under the Charter, a number of prominent lawyers and law professors, such as Clayton Ruby, Robert Leckey, and Mari-Claire Belleau have suggested that the Bill is unlikely to withstand a Charter challenge, as reasonable accommodation is not supposed to be denied unless undue hardship is created, and the government would not likely be able to show that a breach of rights and freedoms is necessary. Ruby, for instance, a Toronto-based defence lawyer, says the Bill is "hard to justify," as "it's a blow at what somebody else conceives their religion to be. Freedom of religion is guaranteed, and it's been a very strict guarantee, as long as you're not hurting anyone" (Vallis). Leckey, a constitutional law professor at McGill University, is likewise critical of the Bill for its differential effect on one particular religious minority, noting that "the law may seem neutral but it's clear that there's a differential impact on practitioners of a particular religion" (Patriquin and Gillis 23).<sup>8</sup> Third year McGill University law student, Daniel Haboucha (2010), explains that in order for the Bill to withstand a legal challenge, the government would have to show that (i) the means are rationally connected to the objective (gender equality and integration); (ii) the Bill infringes on the rights and freedoms to as little an extent as possible, and (iii) that there is proportionality between the infringement of religious freedom and the Bill's objective. Haboucha notes that the government may be able to establish the first point, would have more difficulty with the second, but would likely fail in establishing proportionality. Haque and Bullock (2010) also explain that to withstand a Charter challenge, the Bill would have to "withstand scrutiny according to the Oakes test, whereby limitations on



rights or freedoms may be deemed appropriate if it can be established that: (i) the legislative objective is pressing and substantial; (ii) that there is a rational connection between the legislative means chosen and the objectives sought; and finally (iii) that the infringement must be a minimal impairment on the right or freedom in question.” They contend that the Bill would not be able to meet such a challenge, as “(i) the issue is not pressing, as the number of *niqabi* women in Québec is small; (ii) the objectives sought (gender equality and integration) are not rationally connected to the outcome of the Bill (further isolation); and (iii) the right in question is maximally impacted, as it forces a person who would rather not, out of a deep seated religious conviction, show their face.”

**Freedom of Religion:** Under this argument, groups and individuals point out that it is not the duty of the state to decide how a person exercises their religious rights (Arnold) and that individuals should retain the right to practice their religion in the best way they see fit, as long as it does not infringe on the rights of others. Significantly, a number of groups also point out that freedom of dress is also an important aspect of religious freedom that needs to be protected, and that requiring women to not wear the *niqab* is as bad as requiring someone to wear it.

In addition to a number of civil society organizations, Muslim as well as other religious groups like the Quebec Jewish Congress (QJC) and the Canadian Muslim Federation have been among those who have criticized the Bill from the perspective that it violates freedom of religion. In agreement with the QJC's position, that wearing religious symbols, including the *niqab*, is a matter of personal choice (Arnold), the Canadian Muslim Federation sees the *niqab* as a choice not unlike “dyed blue hair or piercings.” The Canadian Muslim Federation has additionally called the proposed law “Islamophobic and discriminatory” (Dougherty, “Bill 94”).

The most coordinated opposition to Bill 94 under the freedom of religion argument has come from a coalition of different civil society organizations collectively known as No/Non Bill 94.<sup>9</sup> The group states that its position derives from legislation that protects freedom of conscience, religious expression, and equality under the law—rights and freedoms guaranteed equally to men and women. Introducing the coalition at a recent meeting, Zahra Dhanani, a METRAC<sup>10</sup> lawyer, said:

We believe that the response to gender inequality and gender discrimination must be created in partnership by the very women who experience gender inequality and gender violence. It's no longer okay for legislators who have no idea what it means to be a Muslim woman, who have no idea what it means to have been born and raised wearing the *niqab* to decide whether women wear the *niqab* or not.<sup>11</sup>

A coalition meeting at Ryerson in early May 2010 drew 150 people. The group has launched a petition, submitted a brief to the government, and encouraged members to speak out and challenge their MPs to oppose the bill (Cole). Excerpts of the coalition's petition read as follows:

**No Bill 94 Coalition is made up of concerned individuals, organizations and grassroots movements that are demanding that the proposed Quebec legislation, Bill 94, be withdrawn immediately.**

...Bill 94 specifically targets Muslim women who wear the *niqab* (face veil). The bill is an exaggerated response to a manufactured crisis that will allow the government to deny women services to which they are entitled. A truly democratic society is one in which all individuals have the freedom of religious expression and a right to access public services.

Although touted as a step toward gender equality, Bill 94, if approved, will perpetuate gender inequality by legislating control over women's bodies and sanctioning discrimination against Muslim women who wear the *niqab*. Instead of singling out a minuscule percentage of the population, government resources would be better spent implementing poverty reduction and education programs to address real gender inequality in meaningful ways...

If Premier Charest's government is truly committed to gender equality it should foster a safe and inclusive society that respects a woman's right to make decisions for herself. Standing up for women's rights is admirable. "Rescuing" women is paternalistic and insulting. Further marginalizing Muslim women who wear *niqab* and denying them access to social services, economic opportunities and civic participation is unacceptable.

... No Bill 94 Coalition is made up of concerned individuals, organizations and grassroots movements that are demanding that the proposed Quebec legislation, Bill 94, be withdrawn immediately.<sup>12</sup>

**Women's Rights and Gender Equality:** Related to this final point, groups have also questioned the constitutionality of the Bill on the grounds of gender equality. Here, groups are extremely critical of those who invoke gender equality as a justification for the Bill, arguing instead that limiting how a woman is allowed to dress is an infringement on her rights, and is especially troubling when a woman's choice of dress may lead her to be barred from accessing social services. Rather, opponents of the Bill point out that the Bill seems to impose one interpretation of "gender equality" (one that sees the *niqab* as a symbol of oppression, not as a woman's religious choice) over another, in a way that ends up being paternalistic and does nothing to advance women's rights or women's empowerment. Dana Olwan (2010), for instance, says the logic on which the Bill is based grants the state, and men, the right to legislate something that they should not, and assumes that Muslim women

are oppressed. Olwan also warns that “[b]y extending the Canadian state an unauthorized invitation into Muslim women’s closets, the proponents of Bill 94 maximize state control over women’s bodies and day-to-day choices of dress and religious practices.” The No/Non Bill 94 Coalition is particularly critical of the paternalism inherent in the Bill, and argues that “the response to gender inequality and gender discrimination must be created in partnership by the very women who experience gender inequality and gender violence.” As one editorial notes: “To force women to reveal their faces—or, for that matter, wear short skirts or have their hair down—as a condition for accessing public services, including health care, is no way to protect their rights. Bill 94 will do little more than drive the couple of dozen Quebec women estimated to wear the *niqab* back into their homes where, if they are being repressed already, they will have even less access to assistance” (“Que. Prohibition”).<sup>13</sup>

Writing in a similar vein, commentators such as Soha Elsayed point out that “to liberate women, we need to empower them,” and suggest that creating daycare spaces rather than taking them away from veiled women would be a better approach (Monteiro). Victoria Tahmabesis says framing the question as one of gender equality does not make any sense, as equality has to do with autonomous decision making and equal access to employment and education opportunities.<sup>14</sup> Haque and Bullock (2010) also point out that the Bill denies in advance requests for same-sex service, even though requests for same-sex service are routine for people of many different backgrounds. They note that in Ontario, the government allows such requests by *niqabi* women, and this has not been a problem.

**Equality:** In addition to questioning the Bill on the grounds of violating religious freedom and women’s rights, opponents of the Bill have also noted that the Bill may be challenged under the equality clause in the *Canadian Charter of Rights and Freedoms*, a clause that guarantees all rights are equally protected for all citizens (Vallis). Mohammed Fadel, for example, argues that the Bill has negative effects for how Canadians define equality, as denying certain people access to public services severely undermines the idea that we are all equal citizens.<sup>15</sup> Others, including an association of Jewish jurists known as the Lord Reading Law Society, have pointed out that in this is case the right to religious freedom is being trumped by other rights. The Society maintains that in creating a “hierarchy of rights,” the Bill makes “the equality of men and women more important than religious and other freedoms” (Arnold).<sup>16</sup> Interestingly, Louise Beaudoin, the PQ Immigration critic has suggested doing just that—i.e., amending the Quebec Charter to establish a hierarchy of rights by giving priority to gender equality, secularism, and the primacy of French (Dougherty, “Reasonable”).

**Bill 94 as Islamophobic:** A second kind of argument made in opposition to Bill 94 is that the Bill is discriminatory and Islamophobic. The Canadian

Muslim Federation, for instance, called the bill “Islamophobic and discriminatory” (Dougherty, “Bill 94”) while Farheen Khan suggested the Bill was an example of systematic Islamophobia.<sup>17</sup>

Groups and individuals who advance this argument point out that the Bill is based in fear and stereotypes about Islam, and are also critical of the Bill for singling out *niqabi* women and targeting only Muslims.

A range of groups and individuals have also criticized Bill 94 because it is based on negative stereotypes about the *niqab* and Islam, and is rooted in a culture of fear and the “War on Terror” narrative that has gained voice since 9/11. Salam Elmenyawy, for instance, argued that the Angus Reid poll results are a result of the emotional climate surrounding the issue, and all the “negative stereotypes that have been on the airwaves” surrounding the *niqab* (Scott, “Majority”)— a sentiment with which the authors of the Macleans article “About Face” agreed, suggesting that poll results may reflect an underlying suspicion of Islamic traditions (Patriquin and Gillis 22). Likewise, Dana Olwan (2010) argues that the “War on Terror” narrative—accompanied by the narrative of Muslim women as oppressed—legitimizes the Bill and underlies arguments made in support of the Bill. An organizer at a No/Non Bill 94 Coalition meeting noted that one motivation for the coalition was the weariness with the argument that the Bill was about gender equality, when in fact it was “actually about racism and about saying to people that they [niqabi women] don’t belong here.”<sup>18</sup> Also at that meeting, Anver Emon said he found the language of security problematic, as it seemed to transfer fears related to the war on terror onto *niqabi* women. Emon said, “When suddenly the covered Muslim woman is seen as a threat to our security I think we’re actually imposing on her a concern that we just can’t solve somewhere else... on people that we cannot find because they’re in some hilltop.”<sup>19</sup> Likewise, Jasmine Zine said the Bill is part of a ‘culture of fear’ gaining legitimacy in Canadian society, and has warned that the Bill is the beginning of a process in which Muslim women are targeted because of their dress (Monteiro).

**Targets Muslims:** Another critique of Bill 94 related to the theme of Islamophobia is that the Bill singles out *niqabi* women, and seems to be an attack specifically on the Muslim community. This critique revolves around the fact that although the Bill doesn’t mention the *niqab* or burka, in practice the Bill targets the handful of Muslim women in Quebec (estimated between 24 and 90) that wear the *niqab*. This has led many Muslims to feel targeted, as the scope of the law is disproportionate to the number of women who wear the *niqab* (Patriquin and Gillis 21). Considering that one of the conclusions of the Bouchard-Taylor report was that “the way to overcome Islamophobia... ‘is to draw closer to Muslims, not to shun them,’” Graeme Hamilton rightly points out that legislation that singles out the Muslim community will certainly not help overcome Islamophobia (“Cultural Insecurity”).<sup>20</sup>

**Negative Repercussions:** An additional argument made against Bill 94 focuses on the negative effects that the Bill would have if passed, with various people pointing out that the intent of the Bill (better integration, gender equality, etc.) is incongruous with the Bill's effects. Elmenyawawi, for example, notes that "if we are talking about integration, then this is actually much worse, because it will prevent [Muslims] from integrating or changing their ideas... we should leave society to self-adapt, let them either explain themselves to their fellow citizens or adapt and change their ways" (Hamilton, "Unveil Quebec"). Nuzhat Jafri of the Canadian Council of Muslim Women further suggests that the Bill undermines a practice of accommodation that has traditionally been managed in an individualized manner between a service provider and a client. In calling for "systematic solution" to a problem that is not systematic, Bill 94 would have negative effects for both *niqabi* women and their children.<sup>21</sup>

In addition, a number of people have also pointed out that the Bill would have a negative impact on the entire Muslim community. Elmenyawawi, for instance, said "passing a law that targets Muslims would cause a deep and lasting rift within Quebec society that would leave long scars," while Brahim Benyoucef noted that the Bill "had sparked 'consternation and worry' in Quebec's Islamic community" (Dougherty, "Quebec"). Likewise, Asmaa Hussein says the impact of the Bill is a continued feeling of marginalisation among Quebec's Muslims, "the feeling of continuously living with the internalized image of being part of an outsider or immigrant group."<sup>22</sup> This point may be evidenced in the fact that the *niqabi* women who have spoken out by participating in panels and meetings on the Bill, have clearly stated that the *niqab* is their own choice and that they are capable of thinking and speaking for themselves. Some have also noted that the Bill does not make sense to them, as removing their *niqab* for reasons of security or identification has never been a problem.<sup>23</sup>

With sensitivity to the potential for negative repercussions that the Bill has for Muslims, while Gérard Bouchard may have said that granting *niqabi* women access to government services is "a step too far," he also stated that the controversy surrounding the November 2009 case of Naema Ahmed should have remained an internal affair. And although he publicly lent support to the CEGEP (usually translated as Quebec's College of General and Vocational Education) that expelled Ahmed because her requests were affecting other students at a public talk at McGill University, he also highlighted his belief that Quebecers should reaffirm their commitment to both liberalism and national identity, and that these things are not incompatible (Bouchard).<sup>24</sup>

The critique that the Bill might have negative repercussions for Quebecois society has also been advanced by media columnists and a small number of politicians. Haroon Siddiqui of *The Toronto Star*, for instance,

has blasted Charest's government, commenting that had this attitude existed earlier, many other religious minorities in Canada—Hutterites, Orthodox Jews, Sikhs, etc. probably wouldn't be here. He further writes that it is "scary ... when majorities in democracies feel threatened by a tiny minority" (Siddiqui, "Quebec's witch hunt"; Siddiqui, "Picking on"). Interestingly, both Lucien Bouchard, the former PQ Premier of Quebec, and Gilles Duceppe, leader of the Bloc Québécois (the federal version of the PQ), have broken party ranks and offered warnings in a similar vein. While the provincial PQ have said the bill does not go far enough, Duceppe has said that he supports Bouchard-Taylor's "open secularism" model, not the rigid model of France that the PQ has also adopted. Although Lucien Bouchard has not officially condemned the Bill, he has publicly warned his party against playing identity politics, stating a preference for the "inclusive" Quebec that the father of modern Quebec separatism, René Lévesque, envisioned (Siddiqui, "Picking on Muslim women").

### **Analysis and Conclusions**

While the fate of Bill 94 has not yet been decided, the political dynamics surrounding the Bill are quite revealing with respect to ongoing debates concerning cultural identity, social values, and the boundaries of community. Even if the Bill is ultimately withdrawn from the legislative process, these underlying debates are likely to persist. What does it mean to be Québécois? Which values are most essential? Who is irremediably "other"? Such questions have considerable staying power.

Bill 94's popularity in Quebec as well as in the larger Canadian context is broad but not necessarily deep. Anxiety concerning Muslim immigration is easily awakened, in ways that predispose many to redrawing boundaries in ways that exclude cultural symbols experienced as threatening. Nonetheless, vigorous opposition to the Bill on the part of intellectuals and civil society organizations suggests potential resilience among protagonists of liberal multiculturalism and of an open approach to cultural differences within which Québécois as well as Canadian identities are regarded as works in progress rather than as finished products. Although the reflexive popularity of Bill 94 is worrisome, the strength and rapid mobilization of the activist networks opposed to the Bill offers long-term promise for those who hope to build a more secure basis for Muslim identity and belonging within Canada.

There are good reasons, of course, for advocates of inclusion and dialogue in Quebec to feel discouraged by developments surrounding Bill 94. Despite the extensive and often quite visible work of the Bouchard-Taylor Commission and its Final Report, the terms of debate surrounding "reasonable accommodation" seem to have changed little. For instance, "secularism" and "gender equality" are evoked in support of the Bill in the same way these

terms were articulated during the Bouchard-Taylor Inquiry. Despite Bouchard and Taylor's attempts to encourage a more precise, official definition of "open secularism," the term's usage remains vague and inconsistent. The principal difference between the "reasonable accommodation crisis" that prompted the Bouchard-Taylor Inquiry and the political discourse that prompted Bill 94 is that Bill 94 focuses more obviously on one small minority of Muslim women, whereas the preceding, "reasonable accommodation" debate framed discussion of concerns about Muslim minority practices within a larger context, in which concerns about other non-mainstream cultural and religious practices were also considered. Because Bill 94 is the first piece of legislation to address the issue of "reasonable accommodation" since the Bouchard-Taylor report, it would appear that this generously funded, government-mandated inquiry had very little impact either on public opinion or on the policies of the Charest government. Bouchard and Taylor's constructive recommendations concerning positive measures to ease social and economic integration of immigrants appear to have been ignored, whereas statements concerning religious neutrality have provided a rationale for policies that selectively target a specific group, in a manner consistent with popular calls to reassert of cultural boundaries.

Like the Bouchard-Taylor Commission, the process surrounding Bill 94 has again placed a burden of explanation on the shoulders of Muslims, in ways that have a particularly strong impact on women—especially *niqabi* women, but also wearers of the *hijab*. The Commission sparked a large outpouring of responses from Muslim groups and individuals, impelled by the inquiry process itself to defend and explain themselves. Quite frequently, discussion turned to the *hijab*, and many Muslim women felt compelled to explain that wearing the *hijab* was their own choice rather than a symbol of oppression. This same compulsion to explain is evident in this case. Though explicit attention has shifted from the *hijab* to the *niqab*, fear of a "slippery slope" is pervasive. Most women speaking about Bill 94 do not wear the *niqab*, with some even stating it is not a religious requirement and they do not support it. With the exception of the MCC, however, all groups have sought to explain that the *niqab* is a personal choice born of religious conviction, and not a symbol of oppression. While the case has shown that, in some respects, the Muslim community is internally diverse; for the most part members of the community appear united in a conviction that the new legislation is driven by harmful stereotypes. Both men and women appear to have responded to the issue in equal numbers, and some *niqabi* women have stepped forward in unconventional ways.

To its detractors, Bill 94 is less an act of policy leadership than an effort on the part of the Charest government to capitalize on popular anxieties and sentiments that would otherwise provide political fodder for opposition parties. Such allegations concerning the political nature of the Bill would appear



to have some basis in reality. Although the sentiments behind the Bill arguably are driven not merely by Islamophobia but also by long-term debates about cultural identity in Quebec, the manner in which the Bill emerged on the political scene mirrors the timing of the Bouchard-Taylor Commission. The Commission, it can be argued, sought to respond to the so-called “reasonable accommodation crisis” in the run-up to a provincial election when Charest faced a politically dangerous public outcry. It succeeded, for a time, in calming both the political debate and the associated media wars concerning reasonable accommodation. Bill 94 similarly follows a series of symbolically potent events, and once again provides the Charest government with a means of preventing losses to political competitors who are at least as willing (and, indeed, often more eager) to enter the fray of identity politics.

The central role of identity politics and boundary demarcation in Bill 94 is quite clear in the public debate that surrounds it. Although the wording of the Bill evokes issues of “security, identification and communication” as the principal rationale for new legislation, the widespread support for the Bill appears rooted in less pragmatic considerations. In contrast to early efforts to frame the Bill as a “reasonable” response to unreasonable calls for accommodation, the most salient issues in the larger debate are gender equality, secularism, and religious freedom—i.e., value positions associated with attempts to define the boundaries and content of political community. Neither defenders nor opponents of the Bill appear to be taking “pragmatic” arguments about public safety and reliable delivery of services as seriously as broader debates about cultural identity and values.

Interestingly, both opponents and supporters of the Bill have evoked “gender equality” and “secularism” in defence of their positions. Ironically, both sides seem to be drawing on the same modern liberal discourse to support diametrically opposed views. For the most part the debate has remained squarely within a Western, liberal, human rights framework. The argument of many Bill 94 supporters proposes that certain practices must be curbed in an effort to protect liberal social values from erosion and displacement, while opponents argue that Bill 94 itself represents a threat to the liberal values upon which political community in Quebec is based. For supporters, the *niqab* is “a bridge too far”—a substantive embodiment of an alien system of cultural values that cannot be welcomed in Quebec. Opponents of the Bill seek to counter this argument and bolster their own legitimacy as “Québécois” by positioning themselves within the same liberal discourse, in much the same way that many Muslim groups drew on the language of secularism, gender equality, and freedom of religion in briefs submitted to the Bouchard-Taylor Commission. Further investigation into this liberal framing of the debate represents a potentially fruitful area for future research, together with comparative study of how *niqab* debates have been framed in some Muslim-majority countries.

The various responses to Bill 94 seem to reveal something about changing perceptions of multiculturalism in Quebec and in the rest of Canada. A number of authors and critics of the Bill have pointed out that, like the larger reasonable accommodation debate, the Bill seems to arise from Quebec's cultural insecurity—an impulse to preserve a Francophone culture in a predominantly English-speaking North America, combined with a fear of change and multiculturalism (Hamilton; Kay). Other polls have suggested, however, that negative sentiment towards immigration and cultural diversity is prevalent in other parts of Canada as well—as suggested by the Angus Reid poll that found overwhelming national support for Bill 94. Beyond Bill 94 specifically, one poll from the Montreal-based Association for Canadian Studies found that 50% of people think that newcomers should give up traditions and become more like the rest of us, up from 36% in 2007 (Patriquin and Gillis 22). Another poll suggested that by 2007 only 69% of Canadians said that multiculturalism helped foster Canadians' sense of identity and citizenship, down from 80% in 2001. Dana Olwan (2010) characterizes this underlying sentiment in the following terms:

More than anything, Bill 94 reveals some deep anxieties and fears felt in Quebec specifically but resonating throughout Canada. The main, but unstated, question underpinning this bill is one about Canada's identity: What is Canada's *face*, its writers appear to ask? What will Canada look like a year, a decade, or a century from now? Which, or more importantly, *whose* values will it honor and uphold?

Similarly, Anver Emon says the crux of the debate over Bill 94 seems to be about what it means to be Canadian, noting that “when you have the influx of immigration [and] multiculturalism debates... the concern then is who are we?”<sup>25</sup> However opportunistic the timing of the Bill may have been, it cannot be understood without a broader consideration of the changing demographics of Quebec and of Canada as a whole, within a context of heightened post-9/11 anxieties and insecurities.

Another dimension of the Bill 94 debate that merits attention is its impact on the Muslim minority community. A deep sense of sadness, regret, and frustration is evident in the reactions of Muslim groups to the Bill, a sadness born of the feeling that the Bill touches on deeper issues of identity and belonging in which Muslims are repeatedly cast as outsiders who do not belong in Canada. As Olwan (2010) suggested, the Bill is about what the *face* of Canada is to look like. She continues, significantly, to point out that “the unstated premise here is that the more Muslims are allowed into Canada, the less *western* (and Christian) Canada will become.” Significantly, Emon notes that the problem with the debates that have emerged in response to the Bill is that the Bill “doesn't define [who ‘we’ are]... It just says who we are not. And that's the problem”—i.e., the Bill says the “we” of Canada does not include

*niqabi* women.<sup>26</sup> The result of all of this seems to be a culture of displacement and “not belonging” which was much less evident in the hearings of the Bouchard-Taylor commission.<sup>27</sup>

Although Bill 94 has already heightened intercultural polarization in Quebec and to some extent in Canada as a whole, discussion of the matter would be highly incomplete without noting that the introduction of the Bill has also spurred the creation of surprising alliances and coalitions. Even as efforts to advance the Bill give rise to real concerns about how far the pendulum of identity politics might swing, counter-movements of diverse actors suggest that the idea of a dynamic multicultural community—defined not so much by whom it excludes as by its willingness to achieve distinctiveness through inclusiveness and solidarity—still maintains vitality in Canada. The range of actors in the No Bill 94 coalition is certainly an unlikely combination of groups, and invites speculation concerning what partnerships and alliances might persist in the future, as Canadians continue to debate the identity, values, and purpose of their multicultural society.

Given the absence of a definitive decision with respect to Bill 94 and the likelihood that the underlying issues will be contested for some time, definitive conclusions are not possible. What is clear, however, is that identities and boundaries of community in Canada are being contested and renegotiated with great vigour. Despite the heightened potential for marginalization and alienation among minority communities, reinforcement of negative, “us vs. them” contrasts is not the only possible outcome. The Bill 94 debate also has the potential to produce new syntheses within which cultural newcomers more fully integrate values and symbols of their new home, and in which defenders of past Canadian cultural syntheses make space within their identities and worldviews for tolerating forms of cultural expression once regarded as irreconcilably “other.”

## Notes

1. Though not necessarily anti-clerical in nature, present French understandings of *laïcité* have been shaped by intellectual currents of the French Revolution as well as by decades of contestation, especially during the nineteenth century, over relations between the state and the Catholic Church. Conflicting claims were ultimately resolved through firm establishment of a constitutional separation of church and state: the state was declared independent of all religious institutions, and religious institutions free from state intervention in matters of doctrine. Believed to ensure freedom of religious thought within the private sphere, this principle nonetheless presupposes a largely homogeneous domain of public citizenship, within which a common value system, identity, and language of expression prevail. This domain is made possible through removal of religious influences from all public institutions, including schools.
2. Although some scholars have argued that the existence of hierarchical relations premised on a “civilizing mission” (mission civilisatrice) left an enduring

cultural imprint on French attitudes toward Muslim peoples, an in-depth exploration of colonial attitudes towards North African Arab Muslims is beyond the scope of the present study. What is less disputable, however, is that contemporary intercultural relations have been profoundly shaped by large-scale North African (mostly Algerian) migration to France. Driven by the desire for gainful employment, the settlement of North Africans in France has been accompanied by considerable social conflict, economic disappointment, and cultural tension. Among North African migrants, economic marginalization, discrimination, and unemployment have generated trends toward significant minority culture discontent, heightening dissatisfaction with established cultural norms and orthodoxies. Discontent and dissatisfaction have at times found expression in doctrines and symbols of Islamic revivalism, producing considerable anxiety amongst members of the majority culture and controversies over matters such as the wearing of veils (now forbidden) in French public schools.

3. Men who force their daughters or wives to wear a face veil could be fined up to \$37,754 and face a yearlong jail term.
4. Interestingly, Muslim community leaders and scholars urged the Muslim community not to oppose the Supreme Court decision, saying the veil is part of culture and not necessarily a religious requirement (Wajihuddin).
5. The relevant bill extends an earlier ban on teachers wearing the *niqab* in lower and infant schools (UPI). Officials say the ban comes at the request of parents concerned that their children be able to learn in settings free of extremism.
6. Don Martin, a columnist for the *National Post*, also suggested that “legislating our society’s gender equality over misogynist religious fashion imports would be good policy and politics for the federal Conservatives.”
7. While such remarks have not been particularly controversial, some have criticized Ignatieff for his stance; Lysiane Gagnon, a writer for the *Globe and Mail*, lamented that his position seems to debark from the Liberal party’s liberal values, and speculated that the stance was driven in no small part by broad public support for the Bill.
8. Similarly, Belleau, a law professor at Laval, “said she was worried that in affirming the neutrality of the state, the bill is not neutral toward ‘a practice by only women of one religion’” (Dougherty, “Bill 94”).
9. The coalition has been endorsed by AQSazine, Assaulted Women’s and Children’s Counsellor/Advocate Program at George Brown College (AWCCA), The Centre for Women and Trans People at U of T, The Centre for Women and Trans People at York, the Miss G Project for Equity and Education, Frontline Partners with Youth Network, Metro Action Committee on Violence Against Women (METRAC), Native Youth Sexual Health Network (NYSHN), OPIRG Kingston, OPIRG York, Ryerson Student Union, Simone de Beauvoir Institute, and the South Asian Legal Clinic of Ontario (SALCO), Springtide Resources, and Urban Alliance on Race Relations (UARR). See the coalition’s website: <<http://nonbill94.wordpress.com/>>.
10. The Metropolitan Action Committee on Violence Against Women and Children.
11. This quote by Zahra Dhanani was stated at the No to Québec Provincial Bill 94 Coalition Meeting at Ryerson University, May 2010. To see full conversation go to <<http://vimeo.com/11493357>>.

12. Petition available online at: <<http://nonbill94.wordpress.com/2010/04/05/hello-world/#more-1>>.
13. Feminist author Greta Hoffman similarly suggests that forcing women to remove their *niqab* and 'become like us' would be "doing a tremendous violence to them" (Scott, "Veiled Threat").
14. Tahmabasis was a panellist at the closing panel on Bill 94 at *Veiled Constellations* Conference, University of Toronto, 5 June 2010.
15. Mohamed Fadel was panellist on the closing panel at *Veiled Constellations* Conference, University of Toronto, 5 June 2010.
16. The Society has also stated that the Bill "goes against the grain of every position taken by the Canadian Jewish community nationally, and in Québec, in the past, in that it targets in fact, if not in name, a specific religious group, namely the Muslim community, with respect to an activity which represents no danger to the rest of society" (Arnold). It argues that state shouldn't legislate who can exercise religious rights, and are concerned that "many other important religious practices, rituals, and customs which would normally not be considered to be unacceptable, may be unintentionally caught by this legislation" (Arnold).
17. Farheen Khan was a panellist in the closing panel on Bill 94 at Veiled Constellations Conference, University of Toronto, 5 June 2010.
18. This comment was made at the No to Québec Provincial Bill 94 Coalition Meeting at Ryerson University, May 2010. To see full conversation go to <<http://vimeo.com/11493357>>.
19. Ibid.
20. In a similar vein, Salam Elmenyawi, head of the Muslim Council of Montreal, called the Bill "very troubling" as it "points a finger" at the Muslim community (Hamilton, "Unveil").
21. Nuzhat Jafri was a panellist for the closing panel on Bill 94 at Veiled Constellations Conference, University of Toronto, 5 June 2010.
22. This comment by Asmaa Hussein was made at the No to Québec Provincial Bill 94 Coalition Meeting at Ryerson University, May 2010. To see full conversation go to <<http://vimeo.com/11493357>>.
23. Minnat-Allah Aboul-Ella, a *niqabi* woman who participated on a panel at a public meeting in Kitchener, "told the audience that she is insulted when people assume that she is a victim who needs to be rescued from a fundamentalist husband." She noted that wearing the *niqab* was, for her, "the best way to serve [her] creator," and part of her "sense of Islam and [her] identity," while also noting that she has never refused to remove her *niqab* for security reasons (Monteiro). The *Macleans* article on the Bill also featured the story of Shama Naz, a *niqabi* woman from Montreal, who said that it was "common sense" for her to take off her *niqab* in certain situations. The article explains that Naz, a graduate of Concordia, had wanted to return to school, but if the Bill is passed, she likely will not go back to school, and may not even stay in Quebec.
24. Julius Grey, a constitutional lawyer from Montreal, has also come out in support of the Bill, arguing that this is a case of accommodation becoming unreasonable (Scott, "Veiled Threat"). He said the law is narrow enough to withstand a court challenge, as it allows women "a considerable amount of religious modesty by wearing a *hijab*" (Vallis). He notes that the law clearly

- violates freedom of religion but, like other rights, that right is not absolute and in this case should be superseded (ibid.).
25. This comment by Anver Emon was made at the No to Québec Provincial Bill 94 Coalition Meeting at Ryerson University, May 2010. To see full conversation go to <<http://vimeo.com/11493357>>.
26. Ibid.
27. This sense of marginalization is well expressed in Asmaa Hussein's comment at the No to Québec Provincial Bill 94 Coalition Meeting at Ryerson University, May 2010, about "continuously living with the internalized image of being part of an outsider or immigrant group," despite having been born and raised in Canada.

## Works Cited

- Arnold, Janice. "Jewish legal group rejects anti-*niqab* law." Juif.org. 13 May 2010.
- Bouchard, Gérard, and Charles Taylor. "Building the Future: A Time for Reconciliation." Bibliothèque et Archives nationales du Québec, 2008. Print.
- . "Seeking Common Ground: Quebecers Speak Out." Bibliothèque et Archives nationales du Québec, 2007. Print.
- Bouchard, Gerard. "Gérard Bouchard donne raison à Québec." 3 March 2010. Web. 20 May 2010.
- Buzan, Barry, Ole Waever, and Jaap de Wilde. *Security: A New Framework for Analysis*. Boulder: Lynne Rienner Publishers, 1998.
- Cody, Edward. "Anti-Islamic sentiments surface in wake of restrictions on veils." *The Washington Post*. 15 May 2010: A06. Print.
- Cohen, Anthony P. *The Symbolic Construction of Community*. New York: Routledge, 1985.
- Cole, Susan G. "Non Bill 94." *Now Toronto*. 4 May 2010. Web. 20 May 2010.
- "Crowd protests Quebec *niqab* ban." *Montreal Gazette*. 17 April 2010. Web. 20 May 2010.
- Dougherty, Kevin. "Quebec 'veil bill' hearings may soon end." *Montreal Gazette*. 19 May 2010. Web. 5 June 2010.
- . "Bill 94: Maybe Premier Charest is listening." *Montreal Gazette*. 22 May 2010. Web. 15 June 2010.
- . "'Reasonable accommodation' debated as Quebec *niqab* bill hearings being." *National Post*. 18 May 2010. Web. 21 May 2010.
- "Egypt court upholds exam veil ban." *Al Jazeera*. 3 January 2010. Web. 5 June 2010.
- "Face veil ban approved by French legislators." CBC World News. 31 May 2010. Web. 13 July 2010.
- "French deputies pass face veil ban." *Al Jazeera*. 20 May 2010. Web. 14 July 2010.
- Gagnon, Lysiane. "When Liberals were liberals." *The Globe and Mail*. 5 April 2010. Web. 19 May 2010.
- Galloway, Gloria, and Jane Taber. "Tories, Liberals back Quebec's veil ban." *The Globe and Mail*. 26 March 2010. Web. 31 May 2010.
- Haboucha, Daniel. "What's wrong with banning the *niqab*?" *Legal Frontiers: McGill's Blog on International Law*. 10 April 2010. Web. 15 May 2010.
- Hébert, Chantal. "Quebec media have power to stir *niqab* debate." *Toronto Star*. 5 April 2010. Web. 31 May 2010.
- Hamilton, Graeme. "Unveil, Quebec says." *National Post*. 25 March 2010. Web. 20

- May 2010.
- . “Cultural insecurity behind Quebec’s proposed veil law.” *National Post*. 25 March 2010. Web. 15 May 2010.
- Haque, Ayesha, and Katherine Bullock. *Response to Quebec’s Bill 94: It is not the solution*. Toronto: The Tessellate Institute, 2010. Print.
- Hutchinson, John, and Anthony D. Smith. *Nationalism*. Oxford: Oxford University Press, 1994.
- Hunt, Krista, and Kim Rygiel, eds. *(En)Gendering the War on Terror: War Stories and Camouflaged Politics*. London: Ashgate Publishers, 2006.
- Inayatullah, Naeem, and David L. Blaney. “Knowing Encounters: Beyond Parochialism in International Relations Theory.” *The Return of Culture and Identity in IR Theory*. Ed. Yosef Lapid and Friedrich Kratochwil. Boulder: Lynne Rienner Publishers, 1996. 65–84.
- Kay, Barbara. “Why Quebec is banning the burka.” *National Post*. 19 May 2010. Web. 25 May 2010.
- Kymlicka, Will, and Bashir Bashir. Eds. *The Politics of Reconciliation in Multicultural Societies*. New York: Oxford University Press, 2010.
- Levey, Geoffrey Brahm, and Tariq Modood. *Secularism, Religion and Multicultural Citizenship*. Cambridge: Cambridge University Press, 2009.
- Mahapatra, Dhananjay. “Lift veil for voter ID, SC tells burqa-clad women.” *The Times of India*. 23 January 2010. Web. 20 May 2010.
- Martin, Don. “Endorsing Quebec’s proposed veil law would be good politics for Conservatives.” *National Post*. 25 March 2010. Web. 5 June 2010.
- Malik, Zubeida. “France’s Muslims split on burka ban.” *BBC Radio*. 15 March 2010. Web. 21 May 2010.
- Moghdessi, Heideh, Saeed Rahnema, and Mark Goodman. *Diaspora by Design: Muslim Immigrants in Canada and Beyond*. Toronto: University of Toronto Press, 2009.
- Monteiro, Liz. “Open discussion about Quebec’s possible Niqab ban draws 200 at Kitchener City Hall.” *The Record* [Kitchener-Waterloo]. 27 April 2010. Web. 20 May 2010.
- Olwan, Dana. “The Unfairness of Bill 94 unveiled.” *Rabble.ca*. 12 May 2010. Web. 20 May 2010.
- Parliament of Quebec, National Assembly. “Bill 94: An Act to establish guidelines governing accommodation requests within the Administration and certain institutions” (Quebec: Quebec Official Publisher, 2010),
- Patriquin, Martin, and Charlie Gillis. “About Face.” *Macleans*. 12 April 2010: 20–23.
- “Que. Prohibition on face-covering unreasonable law.” *The Star Phoenix* [Saksatoon]. 13 April 2010. Web. 15 May 2010.
- Scott, Marian. “Veiled threat: Niqab new flashpoint in tolerance debate.” *National Post*. 7 March 2010. Web. 31 May 2010.
- . “Majority agree with Quebec’s veil law, poll finds.” *National Post*. 27 March 2010. Web. 20 May 2010.
- Siddiqui, Haroon. “Picking on Muslim women smacks of hypocrisy.” *Toronto Star*. 4 April 2010: A19. Print.
- . “Quebec’s witch hunt against niqabi minority.” *Toronto Star*. 28 March 2010: A17. Print.



- Smith, Anthony D. *National Identity*. Reno: University of Nevada Press, 1991.
- "Spain's legislators reject veil ban." CBC News. 20 July 2010. Web. 25 July 2010.
- Stein, Janice Gross. *Uneasy Partners: Multiculturalism and Rights in Canada*. Waterloo: Wilfrid Laurier University Press, 2007.
- Taylor, Charles. *Multiculturalism: Examining the Politics of Recognition*. Princeton: Princeton University Press, 1994.
- Vallis, Mary. "Would veil law survive a Charter challenge?" *National Post*. 25 March 2010. Web. 20 May 2010.
- Venne, Michel. *Vive Quebec!: New Thinking and New Approaches to the Quebec Nation*. Toronto: James Lorimer & Company, 2000.
- Wajihuddin, Mohammed. "Veil can be lifted for ID check: Clerics." *The Times of India*. 23 January