



COALITION
AVENIR QUÉBEC

RELIGIOUS ACCOMODATIONS FOR A RESPONSIBLE APPROACH

INTRODUCTION

The question of identity will always remain an important issue in Québec. This is as much the result of its history as the political and geographic context in which it exists. In Québec, there is definitely a national culture, an official language, a majority culture with deeply-rooted Christian traditions, and minority cultures including a historic minority in the Anglo-Québécois community. These characteristics are what truly make a nation of Québec. This nation must nevertheless deal with the fact that although a majority at home, the culture of the historic francophone community is undeniably in a minority situation when it comes to Canada and the rest of North America. It is a reality that has provoked much distress concerning our heritage and our future.

The debate on reasonable accommodations of religious nature that periodically resurfaces in the province illustrates to what extent the historic francophone majority is preoccupied by the desire to preserve its values and its heritage. The issue is part of a wider debate on identity in which defending and promoting “Québécois values” is meant to be reconciled with respect for individual and collective rights, a lot of which are codified, notably in the Charter of Human Rights and Freedoms. The debate exemplifies the challenge associated with shaping a common culture where each person’s rights are respected through the recognition of common values.

In recent years, the term “reasonable accommodation” has been used loosely and largely. The media has regularly featured stories where situations are portrayed as reasonable accommodations while this was simply not the case in legal terms. In some cases, the groups or individuals that were being “accommodated” had asked for nothing of the sort. Regardless, this debate continues to stir up fears harboured by the population. Many people view reasonable accommodations as an attack on values that Quebecers cherish dearly such as gender equality and state neutrality. A lack of benchmarks, norms and guidelines lie at the heart of the issue. The debate would not have been blown out of proportion had the Liberal government brought the issue to the National Assembly’s attention, allowing it to assume its responsibilities. It was left up to the courts to decide on cases as they were brought before them. Similarly, public organisations were obliged to make decisions without any framework having been provided for them. In short, Québec is currently playing it by ear and it is high time that each person’s rights and obligations be clearly determined. The Coalition Avenir Québec is ready to take on its responsibilities and provide solutions that will allow Québec to move forwards.

CONCRETE AND NECESSARY MEASURES

The Coalition Avenir Québec advocates for the development of a common culture that is distinguished by its openness, conscious of its rich cultural diversity, and proud of its historic specificity. As the foundation of this common culture, all must recognize the norms and values codified in our charters and in our laws, most notably gender equality, justice, liberty, democracy, respect for human life, non-violence, and state neutrality. Only when these values are threatened are we to limit the requirements of openness and recognition. To guarantee this, concrete measures must be implemented:

1. NEUTRALITY OF QUÉBEC'S STATE

Secularisation and the desire to establish a truly neutral state for Québec emerged during the Quiet Revolution through a balanced and responsible approach in which education was notably entrusted to secular authorities rather than religious ones. The last important act committed in this respect is doubtless the development of a public schooling system. In the first decade of the new millennium, a constitutional amendment put an end to confessional school boards and replaced them with linguistic ones. The extent of secularisation achieved is however not sufficient. State neutrality, after being institutionalised in the school system, must be expanded.

The neutrality of state, after having been secularized in the school system, must be extended to the public sector. In consequence, the Coalition will prohibit public primary and secondary school principals and teachers from wearing visible religious symbols because they embody authority in the eyes of their young and captive clientele.

In addition, employees of the state in positions of authority, i.e. judges and Crown prosecutors, as well as agents and officers of the state in uniform (ex.: prison guards, police officers, etc.) will be subject to the ban. Because of the extraordinary power invested in these people and the institutions they embody, it is fundamental that they accomplish their duties in all neutrality, and with the utmost credibility in the eyes of the public. An image of integral and absolute objectivity must emerge from the exercise of these functions. The representatives of state authority must reflect state neutrality regarding matters of religious belief and the separation of church and state.

The Coalition will also require that employees of the state offer their services to the population with their faces bare. Also, for reasons of identification and security, it will also require that any citizen wishing to receive a public service on the part of a state employee

do so with their face bare.

As mentioned above, Québec opted to secularise its school system many years ago. In consequence, the Coalition **considers that teaching establishments need not provide prayer rooms. However, if it disposes of the necessary space, and out of respect for the spirituality of Quebecers, a teaching establishment can always provide a room for spiritual activities for its students and staff, but it will have to be non-confessional, and will not be permitted to be monopolised by any one group or individual.**

2. GENDER EQUALITY

If there is one principle Quebecers cherish, it is certainly gender equality. Women in Québec achieved full recognition of their rights following a long crusade. No compromise can be made on this issue. Certain accommodations brought up by the media worried some people actually. The right to religious freedoms was sometimes invoked in order to demand these accommodations, thus compromising the right to equality between men and women.

The right to freedom of religion and that of equality between men and women are both recognised by the Quebec's Charter of Human Rights and Freedoms. It sometimes happens that these two rights conflict with each other. The inalienable principle of gender equality must guide tribunals in the case of claims for accommodations based on religion.

3. RESPECT FOR QUÉBEC'S HERITAGE

Québec's history has been profoundly shaped by its catholic and Judaeo-Christian heritage, as well as its First Nations heritage. Christianity has particularly influenced the course of history in this province over the past centuries. Québec's cultural and built heritage act as a testimony to this fact. **Even though the Coalition will want to legislate to confirm state and institutional neutrality in Québec, it does not intend to turn its back on Québec's past. Nor will it reignite, for example, a debate on the presence of the crucifix in the National Assembly or of certain items with religious connotations present in public areas, like in city halls.** These objects have often been in place for several decades and are part of Québec's history and material culture.

Traditional symbols associated with, for example, holidays like Christmas or Easter (ex.: nativity scenes, Christmas trees, Easter chocolates, etc.) are also an integral part of Québec's material culture. We cannot prohibit simply because they have a religious

connotation.

4. THE NATIONAL ASSEMBLY MUST TAKE ITS RESPONSIBILITIES

The issue of Québécois values, state neutrality, and religious accommodations can sometimes be of a very sensitive nature. They spark much passion and controversy which is exactly why it is imperative to find the right balance and adopt a responsible approach with precise objectives. This is what the Coalition Avenir Québec is putting forward. Our position as presented in this document can be summarised in 4 general principles:

- 1- The inalienable right to equality between men and women ;
- 2- Asserting the principle of state neutrality ;
- 3- Respect for and promotion of Québec material culture, including its elements of historic and religious heritage ;
- 4- Québec remains open to new arrivals, and provides a place where all can live and grow while participating in the development of our society through the mutual recognition and respect we have for each other.

These principles must guide the government in view of proposing legislative measures to the National Assembly for consideration and adoption. The government consequently has an important responsibility to settle these issues and MPs must exercise their legislative prerogatives. That being said, elected municipal officials also possess a measure of legitimacy and are responsible regarding the issue. They must also be the ones who implement the four general principles that underpin our proposals. **To the extent that these principles are taken into consideration and respected, the Coalition Avenir Québec wishes to reassert the autonomy of municipalities with regards to the accommodation measures that they wish to implement.**

Municipal officials must answer to the population they represent. They are duly elected and enjoy the legitimacy necessary to take decisions that they deem appropriate for their citizens, as long as they conform to the applicable charters, laws and rules. We must protect this autonomy and the Coalition will do this. A municipality or a borough could for example adopt or suspend a municipal bylaw regarding parking over a determined period of time in order to facilitate the celebration of religious or cultural holidays. In no way does this example contradict the four principles advocated by the Coalition. Moreover, applying similar measures has the effect of liberating citizens, all citizens regardless of their religion, from a certain constraint over the course of the suspension. Consequently, it is in no way discriminatory and does not infringe on anyone's rights. Citizens or recognized organisations have as much chance to obtain a similar decision on the part of a city council in order to organise, for example, neighbourhood parties, parades or cultural events. This

is not a reasonable accommodation in the legal sense of the word, even less an unreasonable religious accommodation. It is in this context that municipal autonomy must be preserved.

Recognizing the secular nature of Québec must not turn into a witch-hunt with regards to all civic and religious manifestations. Otherwise, even promoting Québec heritage could become difficult.

5. A NECESSARY CHARTER OF SECULARISM

To insure that the principles presented earlier may guide the actions of organisations falling under the jurisdiction of the Québec state, it will be necessary to legislate. It has already been mentioned the Charter of Human Rights and Freedoms will have to be amended. **Adopting a true Charter of secularism is also necessary. This charter will permit objective limits – limits we have lacked in the past years – to be established. It will serve as much as a guide than as a reference. Consequently, the Coalition Avenir Québec will propose the adoption of such a charter, the principal elements of which are as follows:**

Principe 1 Québec is a secular state.

Principe 2 The principle of secularism takes precedence throughout the state of Québec and its institutions whilst also guaranteeing freedom of conscience and religion.

Principe 3 The principle of the state of Québec's secularism implies that it must remain neutral with regards to different religious faiths.

Principe 4 The principle of secularism enshrines the primacy of equality between men and women. No exemptions from this principle can be made.

Principe 5 The principle of the state of Québec's secularism predominates, but must be applied with respect for Québec's historic material culture, including its religious heritage.

The courts have had to make decisions several times regarding reasonable accommodations of a religious nature. They did so case by case, based on existing legislation. But the time has come for the National Assembly to clarify the framework that will serve as a guide for the courts. Adopting a Charter of secularism in addition to an amended Charter of Human Rights and Freedoms should help bring necessary clarifications. Whilst referring to it, reasons of security and identification will also possibly be invoked in order to frame the right to freedom of religion for cases such as kirpans in school for example, or full-face veils in certain circumstances.

Several of the reasonable accommodations of religious nature having made the news in the past few years were not, legally speaking, actually reasonable accommodations. Public organisations took it upon themselves to respond positively to the demands made by religious groups, and sometimes did so even before any demands had been made, with the courts having to intervene. These organisations acted in good faith in the absence of a reference guide. **A Coalition Avenir Québec government pledges to put a policy in place to manage cultural diversity, in**

addition to the aforementioned legislative measures. The guide will be distributed throughout the government apparatus.

A religious accommodation can be deemed reasonable only if: it does respect the principles mentioned above; it is compliant with current legislation, and does not alter the functioning of an organization (e.g. the impact on work organization or the cost associated with the claim); and, finally, it favors integration of the requester.

While all the measures proposed by the Coalition Avenir Québec are fundamentally balanced and responsible, it's always possible that they be challenged in court. They might possibly even be brought before the Supreme Court of Canada. If this was indeed the case, it is not clear whether or not it would overturn them outright. Indeed, courts of appeal and the Supreme Court have recognised the legitimacy of restricting or suspending certain rights in the name of higher motives. They recognised Québec's right to protect its culture. Also to be considered, the Parliament of Canada formally recognised, in 2006, the Québécois nation with all the considerations that this implies. **However, if the courts were to repeatedly strike down or endanger the measures taken by the government of Québec in order to preserve the fundamental values of Québec as defined by the National Assembly, Quebecers would not be helpless. In such circumstances, a Coalition Avenir Québec would not hesitate to resort to the notwithstanding clause of the Canadian Constitution. This possibility was duly enshrined in the Constitution and it is consequently legitimate to resort to it when circumstances justify it.**

6. THE TIME HAS COME TO LEGISLATE

The first true governmental response to the debate on reasonable accommodations came on 8 February 2007 when the government of Québec announced the creation of the Consultation Commission on Accommodation Practices Related to Cultural Differences, commonly known as the Bouchard-Taylor Commission. The commission traveled across the province, received hundreds of briefs and heard hundreds of groups, experts and citizens. The Commission's work ended in May 2008 when it tabled a voluminous report.

Two bills were tabled following the Bouchard-Taylor report: the *Act to promote action by the Administration with respect to cultural diversity* (Bill 16) and the *Act to establish guidelines governing accommodation requests within the Administration and certain institutions* (Bill 94). Several groups, experts and citizens tabled briefs in the context of the consultations that preceded the detailed consideration of the two bills. A majority of them took advantage of the occasion to

present their position in the parliamentary commission. The Parti Québécois and Québec Liberal Party then had the opportunity to extensively question the proponents of both strict secularism and open secularism. Both bills died on the order paper when the last elections were called (September 2012). If they were not adopted, it is essentially due to the liberal government's lack of will and the Parti Québécois systematic obstruction.

Regarding religious accommodations, the time has come to take action and to legislate. All positions regarding the issue have been largely presented and discussed more than once in the past few years.

The Coalition Avenir Québec considers the government's idea of holding new public consultations on the issue before tabling a new bill totally useless. A consultation will follow the tabling of a bill anyway.

CONCLUSION

Through these proposals, the Coalition Avenir Québec wishes to confirm the state of Québec's neutrality whilst respecting elements of our society's cultural and religious heritage. We can all live in a Québec where each person – with their different customs and traditions and with respect for their fellow citizen – can participate in enhancing and edifying a dynamic, open, prosperous, and modern society that, while remembering its past, keeps an eye to the future.

Taking charge of cultural diversity is a challenge for all democratic nations. How should diversity be taken into account whilst guaranteeing a future for the majority culture, and whilst integrating all citizens as well as respecting individual rights? The question is an important one, and the unease amidst the majority culture with regards to the future of its identity and its heritage is legitimate.

As there is no global solution that is transferable from one society to the next in terms of managing cultural diversity, it is important to build a fundamentally Québécois model. A model that will be in total harmony with the heritage of Québec society, its institutions and its aspirations. Balance must be at the heart of this model and of all measures that will follow from it. The search for balance was lacking these past few years, and it is one of the reasons why the debate on religious accommodations was not produced a definitive answer.

The search for balance must be in position to find a middle ground between assimilation and the segmentation of society, a situation where different groups live in isolation from one another. It must consequently promote integration, interactions, and common culture. It's what the Coalition Avenir Québec proposes.