

For an Egalitarian and Open Quebec

Brief submitted by the New Democratic Party to the Bouchard-Taylor Commission on the question of “reasonable accommodation”

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I. Context of the debate on reasonable accommodation

(a) International

- The integration of immigrants has arisen as an issue across Western countries in recent years;
- Since September 11, 2001, Muslims have been particularly targetted and Islamophobia has become increasingly common;
- The gap between rich and poor is growing both between countries and even within some countries, heightening tensions between different socio-cultural groups.

(b) Quebec

- Specific features of the Quebec debate:
 - a recognized nation, but fragile due to its minority status both within the Canadian federation and in North America;
 - a civil law tradition that is unique in Canada, whereby legal obligations are codified, in contrast to the other Canadian provinces, which employ the Common Law system, where judicial interpretation defines obligations;
 - The importance of the French language and Catholic religion to Quebec identity;
 - Quebec is not a signatory to the Canadian Constitution.

II. The New Democratic Party’s contribution to the debate

- The NDP holds, as a core belief, that all citizens are equal before the law. We consider this a basic principle of all democratic societies. However, beyond advocating formal equality, the NDP also supports

measures to make these rights a reality in people's daily lives. In other words, this is not an abstract debate over symbols, but a question of which policies are best adopted in pursuit of such real equality. As a result, we favour a pragmatic approach over an abstract debate about identity.

- The NDP recognizes the specific nature of Quebec and has recognized its national character since 1961. We support cooperative and asymmetrical federalism. (See the *Sherbrooke Declaration*).
- The NDP has fought tirelessly for gender equality for many years, and we have a greater percentage of women in our caucus (40%) than any other political party has ever achieved in Canada's history. For us, equality is a fundamental issue.
- On civil rights, both the NDP and its predecessor, the CCF, have been the most active of all parties on issues of racism, sexism, anti-Semitism, homophobia and Islamophobia. Examples include:
 - the first female Member of Parliament (Agnes McPhail, 1921)
 - the first and only Jewish federal party leader (David Lewis, 1971-75)
 - the first openly gay Member of Parliament (Svend Robinson, 1979-2004)
 - the second black federal Member of Parliament (Howard McCurdy, 1984)
 - the first female federal party leader (Audrey McLaughlin, 1989-1995)
 - the first female leader at the provincial level (Alexa McDonough in Nova Scotia, 1981-94)
 - the inclusion of gender equality and Aboriginal rights in the Canadian Charter of Rights
 - the decriminalization of homosexuality and recognition of same-sex marriages
 - the initiation of National Holocaust Remembrance Day
 - the defence of Maher Arar
 - consistent opposition to racial profiling since 2001;
 - the defense of the primacy of human rights in anti-terrorist legislation (opposition to security certificates).

III. Reasonable accommodation

- As the Commission's discussion paper clearly explains, this debate is fundamentally social and profoundly political.
- Therefore, it is not fundamentally a legal debate. Part of the current confusion resides in the fact that a legal principle pertaining to individuals (reasonable accommodation) is being applied to collective socio-political issues (social cohesion, integration and inequality). We support

the position taken on this issue by the Fédération des femmes du Québec in their brief.

- We see religious freedom, cultural rights and gender equality as complementary rights—indivisible and interdependent. Elected officials must work from this perspective. We must not try to “resolve” conflicts where none exist. (e.g. the issue of women wearing the niqab while voting). Exacerbating this conflict with irresponsible remarks makes scapegoats of visible minorities – especially Muslim women.
- We oppose any attempt to reopen the Quebec Charter that would create a hierarchy of rights. And we should certainly not reopen the Charter in the context of a bitter public debate in which minority groups are being targeted! The Charter exists precisely to protect vulnerable groups in this type of situation.¹
- Quebec is a modern society open to the world, comprised of cultures and traditions that live well together. It is a fundamentally social-democratic society.
- Rather than polarizing this debate, we should work together to resolve it. There is no “us” and “them”; but rather there are people living together with a multiplicity of differences, diverse beliefs and cultures, which defy such reductionist categorizations. As Marie McAndrew aptly says: “*The collective project for an egalitarian Quebec remains still largely to be built: it is therefore not the prerogative of any of its component parts.*”
- The successful integration of immigrants will not be achieved through regulations to secularize the State or via superfluous laws on wearing the niqab during voting or the presence or absence of a crucifix in the National Assembly. Let us stop reducing Muslim women to just their gender or religion. They are, first and foremost, full citizens, just as much Quebecers as were Irish women who came during the potato famine, Chilean women in 1973, Vietnamese women who fleeing war, or any other of the successive waves of immigrants who found a welcoming home in Quebec. With the exception of the First Nations who have been here for thousands of years, we are all more or less recent immigrants.

IV. Finding Solutions: Tackling Concrete Problems

- Interethnic harmony, the predominance of the French language and the successful integration of immigrants of diverse backgrounds will be

¹ The irony is that many of those making intolerant and sometimes blatantly racist remarks are now defending women’s rights. There is some parallel with those who defend Canadian military intervention in Afghanistan in the name of upholding women’s rights, whilst these same interventionist governments are systematically attacking the gains made by women in their own countries.

achieved through ensuring that immigrants are afforded the same opportunities as those born here. This is equality before the law, but we know that is not a reality today. For example:

- o Although immigrants increasingly have advanced credentials and work experience, a growing number live in poverty.
- o Although we know that the failure to recognize foreign credentials is a major obstacle to effective integration of immigrants, our governments have failed to make progress on this issue –despite the critical shortage of qualified staff, in hospitals for example.
- o Although we know that discrimination, racial profiling and inter-ethnic tensions exist, the resources and guidelines to solve these problems are increasingly scarce (e.g. long wait times before the Human Rights Commission; the closing of the Court Challenges Program; budget cuts to community and advocacy groups fighting racism; cuts to youth centres, etc.).

V. Conclusion

We congratulate the Government of Quebec, the Commissioners and all intervenors for providing the opportunity for this important debate. Although the intolerance and at times overt racism of some of the views expressed during the debate may be shocking, it is critically important that this debate take place. We regret the political exploitation practised by certain parties, playing on people's fears, their insecurity about their future, and on misunderstandings, to inflame the debate. . Elected officials, at all levels, have a duty to work together to find concrete solutions that will improve lives, not to propose unnecessary laws that only aggravate tension and malaise. The NDP will always work practically in this way towards enhanced equality and social justice for all.