

“A TIME FOR RECONCILIATION”?: THE BOUCHARD-TAYLOR COMMISSION  
AND EVOLVING DEMOCRATIC PRACTICES IN IDENTITY POLITICS

by

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## **Abstract**

This paper aims to explore the Bouchard-Taylor Commission as an example of an attempt to develop elements of deliberation into Canada's representative democratic system. Exploring this case study will help elucidate the theoretical strengths and weaknesses of different approaches to democracy as they relate to issues of identity, and some of the practical difficulties and benefits involved in introducing more deliberative elements into a representative system. Though each covers a variety of more particular forms, broad models of democratic practice can be recognized and grouped according to the way they interpret the public will and translates it into government action. I have organized these broad conceptions of democracy into three models, which can be identified as representative democracy, deliberative democracy, and what I am calling expressive democracy. I argue that any practicable solution to identity conflicts will necessarily be a hybrid of these three models; for that reason it is important to fully understand the strengths and weaknesses of each model in relation to the others. Through this practical example, I will attempt to refine our understanding of each of these models so that they can be brought together in a general theory of democracy that will better speak to conflicts in identity politics.

## Contents

Abstract.....	ii
Acknowledgements.....	iv
Identity Conflict and Democracy .....	1
Reasonable Accommodation: The Quebec Case.....	6
The Lead-Up to the Commission.....	6
Negotiating Interests in Traditional Representative Democracy .....	10
Self Transformation and Deliberative Democracy .....	14
Truly Free Speech and Expressive Democracy.....	18
Strengths and Weaknesses in Resolving Identity Conflict.....	22
The Bouchard-Taylor Commission.....	28
The Mixed Model .....	28
Deliberation in Practice .....	31
Aftermath.....	34
Conclusions and Recommendations .....	38
Bibliography.....	43

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## Identity Conflict and Democracy

On March 19, 2007 the *Journal de Montréal* published a story about a sugar shack in the Montérégie region of Quebec that incited outrage and heated debate among Quebecers. L'Érablière du Sous-Bois had responded to the request of a Muslim tour group visiting the facility by adjusting their menu to serve pork-free beans and pea soup, and had cleared the dance floor for a short period to accommodate afternoon prayers (Roy 2007) (Nadeau 2007). There was immediate public outcry that the accommodation of immigrants and religious minorities had gone too far, and that esteemed Quebec traditions were being accosted. Many condemned the proprietors for cow-towing to minority demands that undermined and disrespected Quebec society, and declared accommodation by the sugar shack to be an affront to one of the few remaining symbols of Quebec customs.<sup>1</sup> The director of the sugar shack was overwhelmed with calls from the public, leading her to make a public apology in an interview with the *Journal* a few days later. She stated "On a fait une erreur. C'est dommage qu'on ait à payer comme ça. Je ne pensais pas que ça créerait un tel problème" (Baillargeon 2007).<sup>2</sup>

Indeed, at any other time it is unlikely that a similar adjustment would have caused such furore. The sugar shack situation, however, occurred during a period that became known as the 'accommodation crisis' in Quebec – an episode of intense public debate and scrutiny over the values of cultural integration and its effects on Quebec's identity. After months of

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<sup>1</sup> Opinions expressed to the paper included many comments similar to those of Carole Brunet, who stated: "Je suis outrée! Pas plus compliqué que ça...Les cabanes à sucre, c'est typiquement Québécois...Le propriétaire de la cabane à sucre n'a pas eu raison de faire ça." Marc Pelletier shared that sentiment, and added his dedication to preserving Quebec traditions: "Non non et renon. la seule place qui nous reste de Québécois. Sa vas finir par une bonne bataille, un moment donné. Sa vas faire. Je ne suis plus capable qu'ont fassent des accodements raisonnable." Both responses to the *Journal* articles made by online response March 19 2007.

[http://opinionsjdm.canoe.ca/2007/03/19/les\\_proprietaires\\_de\\_cabanes\\_a\\_sucre\\_ont](http://opinionsjdm.canoe.ca/2007/03/19/les_proprietaires_de_cabanes_a_sucre_ont)

<sup>2</sup> "We made a mistake. It's wrong that we should pay like this. I didn't think it would create such a problem."

escalating debate in the media and among politicians, Premier Jean Charest called the Commission de consultation sur les pratiques d'accommodement reliées aux différences culturelles, a Royal Commission charged with conducting a province-wide public discussion on cultural accommodation.<sup>3</sup> The resultant exercise served to put all of Quebec society, and its values, under the microscope. The work of the Commission, however, served to do more than simply define Quebec values and explore the accommodation of minority groups, but the Commission process itself revealed many developments that speak directly to issues of democratic practice.

Conflicts of identity provide one of the greatest challenges to democracy, so the realm of identity politics provides fertile ground to cultivate democratic theory. As the sugar shack debate exemplifies, identities are extremely difficult to quantify; they can be self-proclaimed, overlapping and fluid, and are therefore impossible to discuss objectively. What's more, contestation over recognition and individual versus group rights leads to the impression of a zero-sum game and an ossification of positions that are often not only intractable, but also cannot be presented within the rational liberal scientific paradigm. Further, democratic theorists have noted that groups are internally diverse, and intra-group conflict over interests is common. Considering the nature of groups in disparate societies, Iris Young has argued that a sense of togetherness in a polity in no way requires mutual identification. Instead, polities must search for some shared interests and try to agree on a notion of justice and the common good in order to resolve conflicts. Young notes that it may not always be possible to reach solutions, but commitment to the dialogue is all that is required to sustain a healthy, functioning democracy (Young 2000, 110). In order to work, in other words, democratic politics demands a

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<sup>3</sup> For concision's sake, I will hereafter refer to the Commission simply as such, or as the Bouchard-Taylor Commission, after the names of the co-chairs.

sense of social unity in order to maintain a commitment to seeking solutions to conflicts that arise from difference and inequality. As Theodore Roszak states: “we live in a time when the very private experience of having a personal identity to discover, a personal destiny to fulfil, has become a subversive political force of major proportions” (Giddens 1991, 209). What is required is a democratically legitimate means of resolving conflicts of pluralism, and a pluralistically legitimate definition of democratic practise. Democracy needs to be able to adjust to be as reflective and sophisticated as the society it governs.

Democracy is viewed not only as a constitutionally-established set of procedures of governance, but is also generally seen as a social good required for legitimate governance. The necessity of democratic processes to legitimate decisions presents well-known challenges to collective action. Consequently, competing theoretical models of democracy have emerged, each promoting a different approach to discussions of identity. These different focuses stem from different understandings of the relationship between citizens and the public sphere - democracy is above all based on the notion that the will of the people be the guiding force behind their own governance. Though each covers a variety of more particular forms, broad models of democratic practice can be recognized and grouped according to the way they interpret the public will and translates it into government action.

I have organized these broad conceptions of democracy into three models, which can be identified as representative democracy, deliberative democracy, and what I am calling expressive democracy. Representative democracy is the traditional view as articulated by James Mill. It recognizes democracy to be interest based; citizens are rational and self-interested actors, whose interests can be represented and promoted in the public sphere in order to negotiate the greatest good for the greatest number of citizens. This model underpins

the standard political institutions of the liberal state. In contrast, deliberative democrats such as David Matthews argue that the perception of politics as a specialized practice taking place in a separate realm divorced from ordinary life must be overcome, in order to counter the impression of the public as merely a passive voyeur of policy development, helpless to affect it. In this view, interests are seen as constructions, which can be transformed through a process of public reason-giving and deliberation. Finally, expressive democratic politics extends the representative model in its emphasis on the rights of the individual to assert him/herself in the public sphere, and the deliberative model in its emphasis on hearing all voices directly from the people. It also goes further than either of these other models in that it places no restrictions on the mode or content of discourse. Here the focus is on the empowerment of individuals in the public sphere, without a requirement of liberalism, reasonableness, or other social norms to limit speech acts.

I argue that any practicable solution to identity conflicts will necessarily be a hybrid of these three models; for that reason it is important to fully understand the strengths and weaknesses of each model in relation to the others. The predominant representative model of democracy cannot be avoided as representative democracy is integral to the administration of complex polities: deliberation that is too far removed from formal power severely limits the possibilities for public talk to result in direct action. That said advancements in science and society are resulting in increasingly complicated problems with which traditional democracy cannot adequately contend. Deliberative and expressive practice allows for a greater range of communicative tools, and can enable democracy to be a transformative process, both goals that aid collective action within a pluralistic reality. In order to have a practicable, problem-driven approach, better designed democratic processes must be implemented which incorporate elements of deliberative and expressive democracy into the representative model.



For this to be successful it is necessary to explore the conflicting nature of each conception of democracy, so that mixed models may be designed to best negotiate democratic expression in relation to identity claims.

The Bouchard-Taylor Commission provides a unique example of an attempt to develop elements of the deliberative approach to democracy within Canada's representative system. This paper aims to explore the Commission as the practical application of principles of democratic theory. Exploring this case study will help elucidate the theoretical strengths and weaknesses of different approaches to democracy as they relate to issues of identity, and some of the practical difficulties and benefits involved in introducing more deliberative elements into a representative system. Through this practical example, I will attempt to refine our understanding of each of these models so that they can be brought together in a general theory of democracy that will better speak to conflicts in identity politics. I will begin by detailing the Commission itself and the situation it sought to resolve. I will then expand on each model of democracy by elaborating on the principles, structure, and the types of public discourse promoted or prohibited by each democratic structure. I will explore the strengths and weaknesses of each of model in resolving identity conflicts, and provide analysis of how the models interacted in the Commission and affected its processes and outcomes. I will conclude with recommendations of the considerations that should be factored into future democratic designs.

## **Reasonable Accommodation: The Quebec Case**

### ***The Lead-Up to the Commission***

The instance of the Commission de consultation sur les pratiques d'accommodement reliées aux différences culturelles provides an excellent example of the tensions between models of democracy, and sheds light on the importance and possibilities for blended types of dialogue. The Commission was the culmination of a tumultuous year in Quebec politics which saw what had previously been mostly legal debates about the place of religion in the public sphere escalate into rising public attention and unease around issues of immigration and multiculturalism. The Charest government called the Commission in order to diffuse a situation of escalating public debate; it was meant to take heated though unfocused arguments off the table in the lead-up to a provincial election.

During the time roughly between the entrenchment of the Charter of Rights and Freedoms and just after 9/11, there were only 13 accommodation cases reported in the media. These cases involved requests for religious accommodation negotiated within the framework of the new legal obligations of the Canadian and Quebec Charters. One of these cases involved a catholic employee of the Eaton store fighting for the right to refuse to work on Sundays, another, a Sikh arguing for the right to wear a turban in the RCMP as opposed to the traditional uniform. All involved legal or quasi-legal bodies, such as the Commission des droits de la personne et des droits de la jeunesse, the Quebec Human Rights Tribunal, the Superior Court of Quebec and the Supreme Court of Canada. Public opinion during this time viewed these debates as matters of developing jurisprudence, and little controversy arose over the validity of accommodation practices (Bouchard and Taylor 2008, 48-9).

The post 9/11 period incurred a change in the debate on accommodation. Within a context of heightened social tension and suspicion, accommodation requests came to greater prominence in public debate, and the language of that debate reflected the insecurity and imprudence of the atmosphere. From February 2002 to February 2006 there were 12 accommodation cases reported in the media, but they drew much more public reaction than in the previous period. This is exemplified by the highly publicized legal battle between Gurbaj Singh Multani, a Sikh student, and the Marguerite Bourgeys school commission over the student's right to wear a kirpan in school. A court injunction in April 2002 allowing the boy to attend classes with the kirpan resulted in some parents picketing the school and withdrawing their children from classes. In May of that year, the Quebec Superior Court ruled in the boy's favour further intensifying public opinion. The importance of the case in influencing debate continued to increase as it was subsequently brought before the Quebec Court of Appeal, which reversed the previous decision in March 2004, and finally to the Supreme Court of Canada, which finally ruled in the boy's favour in March 2006 (*The Gazette (Montreal)* 2006). Debate over religion in the public sphere was exacerbated by the debate over Sharia Law in Ontario, but also included demands for the public religious observance of French-Canadian Christians (Bouchard and Taylor 2008, 50). The debate was gaining prominence, but had yet to be seen as an issue of immigrant integration and accommodation per se.

In the year leading up to the Commission, there was a veritable explosion of publicized accommodation cases, an increase 13-times that of the previous period (Bouchard and Taylor 2008, 53).<sup>4</sup> Compounding that was the influence of politicians wading into the debate, particularly that of Mario Dumont and the populist Action Democratique du Quebec. By 2007

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<sup>4</sup> In the 15-month period from March 2006-June 2007 there were approximately 40 cases noted by the Commission, as opposed to 12 cases from 2002-2006, and only 17 from 1985-2002.

there was almost daily reporting on some aspect of a rapidly expanding and escalating debate, as noted by the Commission:

- January 15, 2007: A Léger Marketing poll reveals that 59% of Quebecers say that they are racist. The survey was conducted on behalf of three Montreal media organizations.
- January 16, 2007: Mario Dumont releases an open letter denouncing his political opponents' submission into the "old reflex of the minority" that was allowing Quebecers to "collectively fade into the background" at a time when they should be asserting their values.
- January 19, 2007: A Montreal daily publishes remarks by Parti Québécois leader André Boisclair that the crucifix is out of place in the National Assembly.
- January 26, 2007: A Montreal daily publishes the first of what would become many articles on the town of Hérouxville's official code of "life standards" (Bouchard and Taylor 2008, 56).

The immediate catalyst for the Commission was the controversy over the Hérouxville code. Hérouxville is a town in the Mauricie region of Quebec, approximately 200km northeast of Montreal. The 25 January 2007, the town council passed a five page resolution designed to inform any potential immigrants of the kind of conduct expected of residents of the town of 1,300. This document stated, among other things, that marking or covering one's face is only permitted on Halloween; the stoning, live burning or disfiguration of women with acid is prohibited; no weapons – real or symbolic – are permitted in schools (an obvious reference to the Multani case); and a notice that biology is taught in the town's schools. More remarkable still was the incredible attention given to the town; Hérouxville's "life standards" code became major news not only in Quebec, but around the world (Aubin, et al. 2007). The code's drafters promoted the adoption of a similar statement in all of Quebec's municipalities, and a few followed suit. In the days following the Hérouxville code, five other Quebec towns (all in the vicinity of Hérouxville) endorsed similar codes (Aubin, et al. 2007). The towns of Saint-Adelphé and Trois-Rives passed motions calling on the provincial and federal governments to restrict

Charter accommodation for religious groups. In the Commission report, the co-chairs note that this was far from representative of the general feeling in rural Quebec – only 5 out of the 763 municipalities the size of Hérouxville (between 1000 and 1500 residents) took similar action (Bouchard and Taylor 2008, 75). There were also many rural towns that publicly came out to condemn Hérouxville’s immigrant code (CBC News 2007). That said, it did add to the feeling of crisis at the time, a feeling that was further amplified when an outspoken municipal councillor of Hérouxville, André Drouin, made a television appearance on February 4 2007. He publicly demanded that Premier Jean Charest declare a state of cultural emergency, an action he claimed was required to protect Quebec culture and evaluate the accommodation of non-Christian practices in society. In response, the Premier announced the following day the “the debate has gone too far”, and on February 8 2007 the government established the Commission (CBC News 2007).<sup>5</sup>

The period leading to the creation of the Commission is marked by the confluence of political and social factors. The proliferation of media reporting on accommodation issues exacerbated the controversy, and the term accommodation itself became cliché and often misused. The debate itself shifted from the narrower focus over the place of religion in the public sphere to the much broader question of minority and immigrant integration into Quebec society. Public opinion began to perceive accommodation requests as threatening to Quebec’s values (Bouchard and Taylor 2008, 53). This, of course, begged the question: what are the values of Quebec society?

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<sup>5</sup> It is worth noting that Charest was also likely trying to remove the accommodation debate from the political debate, as it was a much stronger issue for the ADQ leading up to the March general election. This was unsuccessful, however, with politicians of all parties making almost daily comments on the issue leading up to the March 26 vote. In the end there was an almost identical three-way split of the popular vote, with Charest’s Liberals winning the first minority government in Quebec in 129 years.

Citizen input was required to determine whether Quebecers wanted to draw a line in the sand, and if so where to draw that line. I hope to show that this situation in Quebec created a unique demand for democratic deliberation around the question of cultural accommodation, but the opportunity for transformative public dialogue to translate into directed government action was ultimately stifled by a failure to acknowledge the competing models and transition effectively between them. In the following sections I will elaborate on the models of democracy, paying particular attention to the kinds of discourse likely to result from each model. The democratic solution to identity conflict will very much depend on the kinds of discussion enabled by the structure; I will consider the structure of each model and apply a categorization of discourse types adapted from Shawn Rosenberg. I will then return to the Commission and the ways each model affected the case.

### ***Negotiating Interests in Traditional Representative Democracy***

Representative democracy forms the foundation of the traditional liberal state; the theoretical conceptions that inform the structure of political dialogue are therefore important considerations. They direct the benefits and limits of representative democracy in identity conflicts, as well as the framework into which the other models must be incorporated. Though a wide variety of theories fall within the representative model, they all share some basic underlying assumptions about the structure of government and about the relationship between the public and government.

Within these traditional democratic theories government serves as the means to provide fair process and protection within which individuals can legitimately pursue their

interests (Held 2006, 74). It is presumed that individuals lead their lives from the inside, and they define their values and goals. The question, then, is understood as one of liberty: how to best allow each the freedom to question and revise the conception of his/her interests. There can be as many conceptions as there are individuals, and conflict is inevitable as the goals of one person may infringe upon those of another.

As John Locke argues, in order to protect and promote their own interests, men enter into agreements to ensure their mutual security (Locke 1988). People first agree on the realm of their public sphere, and then institute some form of government to act as judge over their society. As judge, government is integral to maintaining order and limiting conflict in society. Theorists within the representative model hold differing opinions on the possibility for democracy to transform the individual. More optimistic theorists such as JS Mill propose that through democratic participation the individual can improve by learning about his/her interests and hones skills of reason and judgement (Mill 1958, 207-8). Others such as Schumpeter deny any individual transformation is possible through democratic practice, arguing democracy – understood as a mechanism of selection of professionals – provides merely the minimum conditions required to pursue personal interests from being overwhelmed by the interests of government itself (Held 2006, 143). All agree, however, that government serves to regulate and referee self-interested people, and democracy serves to ensure liberty and prevent government from abusing the law for their own private advantage.

As it pertains to identity politics, the representative model is best explained by Will Kymlicka's efforts to expand contemporary liberal thought in order to explain how the classical liberal state can deal with groups, group loyalty, and group rights. Kymlicka has noted that like interests, identity comes from within - the individual is an autonomous agent, capable of

separating his own identity from his community. He advocates a procedural approach to documents like the Charter, which ensures that each individual is equal in freedom and in relation to the state, but allows consociational incorporation, so that the *nature* of an individual's rights can vary by community (Kymlicka 1989, 13). It is important to note that these rights are only intended to be extended to reasonably liberal minorities. Kymlicka is far from a relativist, he clarifies that group rights cannot be extended to communities that violate the rights of their members. At the same time he also does not advocate forcing liberal principles upon a national minority. Kymlicka argues that group-differentiated rights are not to be imposed on the individual; rather, these rights provide group members protection from the majority culture, so that they may have the freedom to exercise their autonomy according to their own beliefs.

Individuals are understood to be autonomous and rational, but as Madison notes with each looking out for his/her interests alone, none can be expected to be objective (Madison 1961, 18). Objective reason-giving and a tendency towards quantitative support for arguments are a key development of this kind of democracy. By aggregating and standardizing interests, representatives are able to translate private interests into the public sphere. The democratic incentive to quantify and attain objective (impartial) processes of decision making is indicative of the need for standardization of treatment and rational relationship between individuals and government. Consequently, expertise is required, both on the part of citizens seeking to present an objectively persuasive argument to government, and even more so on the part of government seeking to weigh and balance competing claims. Politics in this view is a profession removed from the people in order to enable government to weigh competing interests and discern "the true interest of their country" (Madison 1961, 21). Democratic government is therefore a matter of skill and professionalism; as JS Mill pointedly noted (Mill 1958, 229-30).



Thus Mill's assumption, consistent with his father's, is that representative rather than participatory democracy is best suited for meeting both aggregative individual and national interests.

The people voice their will by electing representatives to promote their interests, but the democratic conversation occurs between the representatives. Obstacles to becoming a representative, such as resources and opportunity, are intended to protect the people from selecting unworthy delegates but also serve to ensure there is a consistent standard of experiential and communicative background among representatives. Consequently, within the political arena, negotiation is the characteristic communicative style of representative democratic discourse. Individuals are not expected to change their minds, interest being fairly consistent, and therefore consensus is not the goal; rather, negotiated compromise is the best case scenario.

The model for how decisions are reached in representative democratic politics is provided by Rosenberg's category of conventional communication (Rosenberg 2007, 132-42).<sup>6</sup> Conventional communication is found among actors who share a common experiential background. This is the most common type of conversation, as it does not challenge participants to transcend their initial frames of understanding of an issue. In these communications, the standard norms adopted in conversation and shared cultural definitions of objective experience allow the discourse to centre on the issue at hand, interests. Participants address each other according to societal norms which themselves depend on status and social roles, and cultural norms also "delimit the causal or categorical connections among speech

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<sup>6</sup>Many political theorists and communications theorists have created typologies regarding deliberative communication: because of its clarity and incorporation of many of these other authors, I prefer to assess the kinds of communication adopted in discourse according to an adapted version of the typology established by Rosenberg.

acts” – all the participants can talk about the same thing according to the same rules, so their focus is on determining the correct course of action (Rosenberg 2007, 132). This kind of conversation should focus around building a strong base of information, identifying the key values at stake and weighing fully the pros, cons and trade-offs involved with a full range of possible solutions. Mutual respect can be demonstrated by distributing the speaking opportunities evenly among participants.<sup>7</sup> Speech acts will flow from one another according to social convention, and productive participation can be identified by each speaker addressing the specific topic at hand, or addressing the remarks made by prior speakers. One party winning what they want at the expense of another is likely, making voting and transparency essential to the validation of outcomes. The security and legitimacy of the discourse is maintained through a strict adherence to process, which presents certain limitation when dealing with matters of multiculturalism, wherein nontraditional discourse norms will be more likely.

### ***Self Transformation and Deliberative Democracy***

Proponents of deliberative democracy argue that the perception of politics as a specialized practice taking place in a realm divorced from ordinary life must be overcome. They state that citizens are frustrated by the impression of the public as merely a passive voyeur of policy development, helpless to affect it beyond periodically electing representatives to make decisions for them. The deliberative model is built on the premise that the individual is “not only a rational actor who makes choices and acts to satisfy personal interests, he/she is also an ethical and moral agent who reflects and collaborates” (Rosenberg 2007, 7). Deliberation

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<sup>7</sup> These points are adapted from the central elements of the analytic and social processes of deliberation: Gastil, John. *Political Communication and Deliberation*. California: Sage Publications, 2008.

entails the careful weighing and consideration of various options and their consequences, as well as the views of others. It seeks to answer not what people think, but *why* they think it. David Matthews argues that even recognizing people to be rationally self-interested, deliberation is integral because “self-interests are ‘constructs’; people decide (construe) either wisely or unwisely that something is in their self-interest. People can always change these conclusions. What is constructed can be reconstructed” (Matthews 1994, 180). Through learning, but more importantly through interaction with each other without intermediaries, citizens are challenged to relate to politics and each other in new ways. The deliberative process occurs when the public practices democracy in the form of decision-making, discussion and debate, away from government and the trappings of politics. Deliberation however is most effective when it has the resources of government behind it. Matthews notes that governments resort to public deliberation specifically in those instances where politics as usual cannot provide usable solutions. He identifies four problems for which government requires citizen deliberation in order to achieve a solution: when values are at issue; when trade-offs must be made; when the nature of the problem itself is unclear; or instances of political gridlock (Matthews 1994). Though it is intertwined with each of these problems, I would add that legitimacy can not only contribute, but be a significant factor in prompting government to go to the people.

The deliberative model can be designed to accommodate situations of pluralism and deep diversity with the understanding that the individual is a rational, emotional, and socially constructed actor. Proponents argue that many people understand political issues in terms of their own values; Paul Brewer and Kimberly Gross note that often citizens will base their opinion about a policy choice on connections that they draw between the options and their core beliefs (Brewer and Gross 2005, 930). Deliberation serves to put these beliefs and values

on the table, so that individuals can educate each other on how they came to think as they do. It aims to get as wide a variety of viewpoints as possible, in order to consider the full range of options, consequences and views. Further, deliberation seeks to be a transformative process. Through participation individuals are expected to become more interested and empowered democratic citizens. They are not expected to change their opinions on a given issue through deliberation, but rather to change their opinions about those with whom they disagree.

The deliberative model of democracy holds specific possibilities for issues of identity politics. As previously noted, Young has articulated the importance of social unity for maintaining a healthy democracy in instances of diversity. Political theorists like Daniel Weinstock and Avigail Eisenberg have argued that in order for a society to achieve the unity required for stability, there must be sufficient trust between disparate groups that they remain committed to the polity despite their situation of deep diversity (Eisenberg 2007) (Weinstock 1999). Weinstock states trust is based on the understanding between groups that individuals are able to recognize and understand each other to be just that – individuals – and not merely representatives of a group (Weinstock 1999). Recognition, learning and discourse establish the foundational relationships between groups; deliberation provides a model that promotes the kind of discourse needed to transform the individual and build intergroup trust and understanding.

Trust and understanding are gained through what Rosenberg characterizes as cooperative communication. Cooperative discourse is adopted when there is less common understanding between participants, but there nonetheless remains general understanding of “what is true, right, and authentic.” Participants must negotiate specific rules of participation, but they are enabled to do so because they share common general principles of *what makes*

fair and effective participation. According to Rosenberg, this type of discourse is typified by expression of the perspectives of participants in order to reach agreement on the meaning of conventional claims, but with the security of shared foundational assumptions (Rosenberg 2007, 139). Participants must engage in a reflection of their specific beliefs in order to coordinate with others to determine the best decision. Social norms may need to be adapted to accommodate for disparities in social status. Reason giving and exploration of the consequences of subject matter would need to be supplemented with discourse centred on defining the subject matter itself. While consensus on the solution of the deliberation will likely not be an accurate assessment of success, achieving a degree of conformity of definition and/or understanding of the definition of others (and why) marks success in cooperative communication.

Whereas representative democracy seeks to utilize objective knowledge and expertise in order to inform the best decisions, deliberation purports that the best decisions are made when they are informed by the widest public engagement and fullest understanding of the consequences of the decision on all those affected. Participants are empowered to speak for themselves, but one of the objects of deliberation is to teach them to speak in a reasonable way that enables them to make themselves understood to the widest possible range of people. Rather than eliminate emotion for objective reasoning, deliberation should only seek to channel emotion into discourse. According to George E Marcus, the notion that better decisions are made when they are informed by the logical weighing of facts underestimates the role of emotion in cognitive reasoning. The importance of emotion has long been recognized as integral to the political process; a sense of duty, honour, or passion for a cause has all been offered to explain why one would participate politically.<sup>8</sup> Consequently, emotion is privileged in

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<sup>8</sup> Plato, Rousseau, and Madison among others have all offered this kind of explanation.

deliberation rather than discounted, but participants are also challenged to use their rationality to explain to others why they feel as they do. The importance of the structure of deliberation is therefore integral, both to create a 'comfort zone' within which individuals can be challenged in a productive way, and to challenge individuals to engage outside of their habitual fashion in the first place – to use their reason in a transformative process.

### ***Truly Free Speech and Expressive Democracy***

The expressive model of democracy is grounded on the fundamental right of the individual to assert him/herself in the public sphere. This model stems from criticism authors like Katherine Walsh have targeting at deliberation. Walsh notes that “[i]n order to succeed in deliberation, people must put their arguments in the language that is understandable and persuasive to the largest array of people, by definition disadvantaging minority concerns and exacerbating inequality” (Walsh 2007, 45). Expressive democracy dictates that in the spirit of just democratic participation we must empower disadvantaged minorities and people with arguments that are not necessarily made reasonably, the same obligation must stand for illiberal groups, bigots, and others with arguments that are not necessarily made reasonably. Expressive democracy is unlikely to result in trust or agreement, but can (though will not necessarily) serve to bridge epistemological chasms. As such it does not fall squarely within the established definition of deliberation as a problem-driven weighing of options and consequences. Authors such as Saunders have claimed that mutual respect is a prerequisite for deliberation (in order for people to listen to one another) (Saunders 1999). In response authors such as Walsh, Peter Levine et al have categorized expressive communication (which they call *dialogue*) as an independent precursor to deliberation (Walsh 2007, 46) (Levine, Fung and Gastil

2005, 8). I agree with Levine et al that while closely connected, expressive democracy ought to be categorized independently of deliberation.

The expressive model aims to overcome the democratic deficit allowed by both representative and deliberative models, which both share the premise that participants will share discourse norms and be able to at least recognize and understand the reasons given by those with whom they disagree. Both also have standards built in to their discursive rules that function to legitimately exclude those unwilling or unable to share in their foundational assumptions. Within the representative model, the exclusion of certain segments of society from public expression is justified if those individuals profess to illiberal views. Liberals like Kymlicka look to the state as the protector of both liberal and minority rights, but have argued that a liberal democracy cannot expose the individual to oppression by allowing group rights to illiberal cultures. He argues that the more trust citizens have in the state to protect liberal principles, the more open a citizenry will be to immigrant multiculturalism (Kymlicka 2007, 58-9). Stemming from the Rawlsian tradition, Kymlicka asserts that groups in a liberal democracy must deliberate based on their reasonable comprehensive doctrines – any overlapping consensus must be predicated on and consistent with their reason, freedom and equality (Rawls 1993).

Deliberation between a liberal society and an illiberal group will remain without a common language. Alternately, democratic theorists like Lynn Sanders, Iris Young and Katherine Walsh have alleged that deliberation can, however unintentionally, be just as exclusionary. This critique pertains to the inherent power relationships structured into society. Critics assert that these power structures have strong effects on deliberation, so much so that deliberative efforts may become anti-democratic. As I noted above, for this group of theorists,

this problem relates less to the content of what people say in deliberation than on the methods they utilize to communicate. The concern is that some citizens are better equipped and more practiced at “making arguments that would be recognized by others as reasonable ones” (Walsh 2007, 45).

The expressive model is similar to Charles Taylor’s argument that minority cultures must be presumed worthy until deliberation (through which both parties are changed through interaction with each other) provides sufficient understanding to decide on their value. Through communication we can develop the means of comparison and the ability to articulate the contrasts (Taylor 1992, 67). Expressive Democracy coincides with Taylor’s in so far as all cultures and opinions must be welcomed in the public sphere on the presumption of their value. We can later judge and possibly reject a group’s argument, but never the group itself. With no a priori notion of the good, all views must be recognized and heard equally. This does not, however, entail any sort of moral relativism – the constitutional and legal liberal framework of the polity is maintained, thus ensuring that the rights of the individual within that framework are protected. The expressive argument entails only that people be empowered to talk in the public sphere, regardless of their views. Here the focus is on communication; allowing unreasonable or illiberal public speech acts provides for recognition and allows these groups to vent frustrations. The fear is that if suppressed, positions might ossify and occasion the fermentation of more extreme views or oppressive communities sequestered from the rest of society. A key insight of this model is the idea that through participation in the broader discourse, these groups will hopefully be more willing to abide by decisions they do not approve of, and above all can build the requisite common understanding of discursive norms that are crucial to enabling deeper and more meaningful participation in deliberative and representative models.



Rosenberg's typology of collaborative communication would characterize this model as it emphasizes the "engagement of communicative strategies to illuminate forms of subjectivity and inter-subjectivity" (Rosenberg 2007, 141). The collaborative type of discourse as articulated by Rosenberg would be required in order to allow for all voices to be heard. Such collaboration is the most demanding for participants because it does not require they share any sense of common meaning or discursive norms, the primary goal of expressive democracy being to enable all perspectives to take ownership of the public sphere. In the expressive model, there is no expectation that people will share any notion of what makes a sound or reasonable argument. Therefore, reason giving in this form of communication will likely extend the discussion in many directions in order to engage and fully elaborate the experience, justifications, and opinions of participants. Also, social norms of discourse must be broken in order to produce collaborative communication, to incorporate the intellectual and emotional capacities of participants, and alter methods of understanding and communicating. The different ways individuals and groups construct meaning is recognized and engaged without reducing their difference, with the result that participants are simultaneously fostering community and fragmentation. Collaborative discourse aims to provide a fulfilling experience for participants, one through which being heard may alter participants' impression of themselves and the other.

This model sees democracy as an ongoing process with mutual recognition as an outcome developed through dialogue. This discourse cannot result in either consensus, or any decisive outcome unlike voting processes. Rather, success can be evaluated mainly by considering the degree to which participants can understand each other's differences and "appreciate the history and conviction of one another's views" without agreeing (Levine, Fung and Gastil 2005, 8). The creation of positive bonds and the degree to which participants can

begin to see their interconnectedness – to see each other not as individuals but as interconnected group-members – is the goal of expressive democracy (Walsh 2007, 50).

### ***Strengths and Weaknesses in Resolving Identity Conflict***

Well designed interaction and transition of information and discourse from one model to another is the best way to achieve solutions to conflicts of identity. For decisions pertaining particularly to conflicts of identity and culture, a process incorporating government, people, and each type of discourse informed by the other is required to achieve the legitimacy, support, and authority of an effective decision. The strengths and challenges to each model are different, and they often conflict with one other. The trust built in a deliberative process, for example, does not provide law-makers with any guidance for formulating policy if specific decisions are not made. Likewise, the necessity of judging between interests to direct policy may serve to shatter the mutual understanding garnered from collaborative communication. The question then becomes how to perfect the ‘art of government’ and achieve balance between them. The goal is to best enable the kinds of talk and decision-making required to maintain and build social trust and achieve informed and democratic solutions to identity conflicts. The proceeding section briefly outlines some of the major challenges to each model of democracy in order to determine how the strengths of each model can be combined to overcome the shortfalls of the others.

Guido Pincione and Fernando Tesón articulate the major challenge to the deliberative model in their rational choice-based critique (Pincione and Teson 2006). According to them, discourse failure explains the persistence of recalcitrant positions, which of course spell the end

of any deliberation. Discourse failure occurs when individuals *know* the right thing for the wrong reason, or alternatively, *know* something that is incorrect. Positions become intractable because individuals are certain that what they know is fact, and cannot deliberate on what they know because of the logical break between what they know and how they came to know it, impeding the deliberative principle of reason giving. Pincione and Tesón argue that people are generally ignorant not only of contemporary political events and figures, but also more detrimentally, to general theories of social science (Pincione and Teson 2006). This lack of understanding about how various systems work results in the creation of public knowledge, like the knowledge that “Muslims are violent and hate the West.” The lack of realistic nuance exemplified by this kind of knowledge creates a skewed view not only on judging of individual Muslims, but also on related social and economic issues. Though ignorance is disadvantageous to the considered decision making, Pincione and Tesón note that it is nonetheless rational, considering the high cost involved in gaining a full understanding of events as well as the general theories of social science.

Rational ignorance is compounded by rational error, a process that is enabled by those who provide information to the public, chiefly politicians and the media. Rational error occurs when actors reinforce and re-educate the public on inaccurate beliefs, either because it is easier for them to speak to the public in a language the public already knows, or because it is a useful tool to gain public support behind policies that result from collusion between elites. According to Pincione and Tesón, media and political actors “will typically fuel citizens’ error by making easily available to them those theories and ‘facts’ that would command rational belief given their previous beliefs” (Pincione and Teson 2006, 19). Rational error allows people to rely on perceptive/intuitive judgments as opposed to forming rational judgments. Previously held (and regularly reinforced) beliefs form what J.D. Hunter defines as “frames” – essentially, the

“categories through which people understand themselves, others, and the larger world around them” (Hunter 2005, 28). Matthews recognizes the problem created by rational ignorance and framing when by noting that the first challenge to deliberation is that “citizens may or may not know exactly what the issue is and why they are responding that way” (Matthews 1994, 89). Formal government has the resources and the expertise to enable a greater understanding of ‘the facts’ of a given issue, but to do so requires that interest-driven politicians be brought to see the benefit of educating the public more completely on a given issue.

Here deliberation provides greater incentive for framing to inform decision-making. Whereas the politician must always be concerned with the next election and thus sees conveying unhappy information as an unwelcome task, deliberative framers do not experience this restriction. Matthews states that the facts of the issue need to be kept as full and balanced as possible because deliberation comes down to matters of values, not facts. More specifically, he argues that the facts are never certain; otherwise there would be no need to deliberate in the first place. Deliberation design must attempt to take participants beyond facts to determine “what is important to us in our common life?” (Matthews 1994, 224). Will Friedman and Alison Kadlec have argued that the structure of deliberation avoids frames that set people into trade-off situations from the outset. Overcoming polarization and appealing to as many aspects of people’s experiential backgrounds as possible in order to help them process a fuller range of information is the key to successful deliberation (Kadlec and Friedman 2007, 9).

Even with a thorough and even-handed framing of the facts, the fully expressive model of democracy can easily derail trust-building discourse. The presentation of extreme positions may generate greater inflexibility and polarization; among interlocutors emotional, irrational arguments are likely to result in the same. This risk is extraneously tempered by limitations on

who can speak, by the implementation of procedural documents such as the Charter, by the democratic principle of majority rule or by policies against 'hate speech.' The presence of representatives in traditional liberal democracy serves to legitimately limit and ensure public speakers are liberal and reasonable. The legal guarantee of rights and protections to minorities and the principle of majority rule also ensure that even when extreme positions are voiced, their influence on decisions is limited.

Deliberative or expressive models may create more challenging public discussion, but challenges remain not just in terms of how people talk, but also who gets to talk. In a study on US citizen's juries, Levine *et al* found that that some people are simply more willing to speak than others; the studies they examined found that men spoke far more often than women in deliberation. More disturbingly, even when all participants speak, the voices of some are privileged. Studies of American college students, for example, show that in collaborative projects white students have more influence than black students, even when researchers control for age, height, socioeconomic status and attitudes toward school (Levine, Fung and Gastil 2005, 6-7). This is a noted critique of deliberation, but is all the more likely with the expressive model, which has highest risk of those who talk loudest intimidating others. Here again the resources of the representative model can best counteract the ruinous effects of speaking privilege, by providing the legal protection and formal representation of those groups who are unable to speak for themselves.

The discursive limitations of the liberal model can be overcome through incorporation of deliberative practices. Deliberation also serves to counteract the incentives towards self-serving and biased framing, and the tendency to privilege 'objective' information while maintaining systemic biases. The resources of the liberal state, however, are vitally necessary in

ensuring that any judgement results in effective action. Further, liberal practices of quantitative analysis can better ensure that rational error can be avoided. The freedom, empowerment and inclusion of the expressive model create the truest version of democracy that can be applied, but requires the focus and temperament of either deliberation or traditional liberal democracy – or both. A blend of the three models can best allow for the professional expertise and resources of the liberal model, without unduly limiting the individual to mere interest or the possibilities for collective discourse. Monique Deveaux has recently argued for a form of this blended approach, by proposing to adopt interest as the content to the deliberative model of communication; to deliberate based on practical needs as opposed to values (Deveaux 2003). I agree with her proposal that interests can be debated in an inclusive deliberative fashion. I disagree, however, that identity conflicts can be discussed by considering only interests and not the values and character that informs those interests. As we shall see by the example of the Commission, it is extremely difficult to conduct a public dialogue and ask people to remove an aspect of their identity (much less identity itself) from the discussion. Failure to incorporate the full range of an individual's reasons hampers the legitimacy of deliberation by yielding equally incomplete results.

The ideal mixed model would initiate within representative democracy. The information-gathering resources of government are best suited to collecting the facts on the practical consequences of various options. Then the situation would be handed over to deliberative and expressive processes – to gain the benefit of the openness and inclusiveness of the expressive model, and the education and well-rounded framing of the deliberative model. Deliberation would serve to refine public conceptions of the problem, consider the full range of options as they speak to the values and experiences of individuals. The public would be given the opportunity to learn about the issue and each other, which may transform the discourse or

cause public opinion to coalesce. Even without consensus, deliberation would inspire general agreement as to which values are at stake, which would be translated back into the representative model to provide a guideline to government action. This is a matter of taking the specific to the general and back again; the important element would be to ensure that the public has a clear understanding of the goals and process of the deliberation, and has an opportunity to revise its conclusions before the process goes back to their representatives. An understanding of the likely results of deliberation will allow individuals to change communication tactics if necessary, and provide the public with a full understanding of what exactly it is they are sending back to government.

This will become clearer in the following sections as I detail the design experience of the Commission. As I will demonstrate, the Commission's design incorporated many elements of both the deliberative and expressive models into representative democracy. I will then draw attention to some of the dialogue that took place during the forums, highlighting how the mixed model created room in the process for transformative discourse and political empowerment. I will show that by failing to keep the public fully informed and included in the process, the model limited deliberation. In detailing the public response to the Commission's report and its political implications, I will articulate that the limited emphasis for deliberation weakened the authority of the Commission's conclusions, thus diminishing its influence when the process was transferred back to representatives.

## **The Bouchard-Taylor Commission**

### ***The Mixed Model***

G rard Bouchard and Charles Taylor, both well-known Quebec intellectuals were selected as co-chairs of the Commission. Taylor, an Anglophone, is a philosopher who has focused his work around multiculturalism, pluralism and modernity. Bouchard, a Francophone and sovereigntist, is a historian and sociologist who has worked extensively on issues of demographics and ethnology. The Commission was given the operating budget of \$5 million in order to “accurately take stock of accommodation practices related to cultural differences and analyse the attendant issues,” conduct extensive public consultations, and “formulate recommendations to the government aimed at ensuring that accommodation practices related to cultural differences conform to Qu bec society’s values as a pluralistic, democratic, egalitarian society” (Quebec 2007). To fulfil this task, the co-chairs designed a commission that incorporated elements of all three models of democracy articulated earlier.

Royal Commissions are created by Order In Council in order to collect and provide non-partisan advice to inform the debate within the formal political process. Therefore by its very nature, the Commission met one of the most important requirements of deliberative practice; namely, distance and autonomy from representative politics. Further, a variety of options were established in order to give the public a direct voice to speak to the co-chairs, as well as to each other. Four forums were organized in Montreal by the Institut du Nouveau Monde (a participatory democracy group). They drew approximately 800 participants. Outside of Montreal, hearings were held in 15 regions, resulting in 31 days of public sessions. 22 citizens’ forums were held around the province, each held in the evening and open without restriction to



the public. These were widely publicized, and attracted over 3400 participants (Bouchard and Taylor 2008, 35-6). Deliberative practitioners may argue that these only qualify as a thin conception of deliberation, because participants could only give their statements one-way to the co-chairs, instead of engaging in dialogue with one another. I include it here, however, because unlike other means of citizens' input to elites, in this process emphasis was put on personal narrative and reason-giving. Citizens were asked not only to provide their opinions, but also to share their feelings and personal stories, and to consider and explain why they felt as they did. There were also more interactive methods of participation. The Commission made an appeal for public briefs and received over 900 in response. These were all read, and then the co-chairs held 328 sessions during which they could meet with the authors and be presented with testimony. Finally, a Website was established and between August 2007 and January 2008, it provided opportunities for the public to engage in online exchanges with each other – an opportunity taken up by over 400 000 individuals (Bouchard and Taylor 2008, 35-6).

With so many occasions for uncensored public input, there was ample opportunity for participants to incorporate fully expressive democracy. While people were asked to provide narratives and reasons, there was nothing dictating they must do so. There were no rules to structure the discourse or limitations put on who could participate in any of the open sessions, although some paperwork was required in order to speak at the public forums. This was cause for much concern leading up to the open forums. Some voiced concern in the media that such a free discussion would result in people pushing their own positions without regard for each other, or worse; the high-jacking of the process by extremists seeking to publicly promote their views, resulting in further polarization. Taylor defended the decision, arguing that being able to speak will relieve a lot of the pressure driving the Commission in the first place. Once the issues were out in the open they could be discussed. He also purported that presenting publicly would

provide the imperative for speakers to be articulate and rational, a notion that was put to the test during the hearings. He ultimately defended the expressive nature of the Commission by stating: “People are moved to make some of these objections to some of the accommodations, because of, on the one hand, deep-seated cultural fears. Some of these fears are founded. Some of them aren’t. And if you bring it all out, you can see that some of them aren’t” (CBC News 2007).

While there was extensive opportunity for public input and some truly deliberative potential, ultimately reliance on objective professional expertise, the quantification and aggregation of public opinion, and also the final interpretation, selection and articulation of public input by the co-chairs themselves in their report maintained the representative nature of the Commission. The co-chairs relied heavily on expert input and advice: they established an advisory committee comprised of 15 specialists of various disciplines; they held 59 meetings with experts and 23 meetings with representatives of sociocultural organizations; they commissioned 13 research projects conducted by specialists from Quebec universities. It is worth clarifying here that expert organization and input is also utilized heavily in strictly deliberative events. The use of experts by the Commission characterizes representative democracy because experts spoke directly to the co-chairs, in a one-way dialogue from the public, through the experts, to the co-chairs, as epitomized by the utilization of expertise to create a typology designed to classify the statements provided by the public (Bouchard and Taylor 2008, 35-6). Ultimately, the Commission remained firmly rooted within the representative democratic model.

## ***Deliberation in Practice***

The Commission experienced many of the benefits and pitfalls of the deliberative model featured in the preceding pages. Because deliberation is rarely practiced on such an immense scale, it is worth looking at what was said during the forums in order to evaluate the practicalities of practicing large-scale deliberative democracy. By highlighting some of the major themes in the dialogue at the Commission, I aim to illuminate the benefits of incorporating the deliberative model into identity politics. The public discussion that occurred during the Commission was fruitful and demonstrated the considerable potential of the mixed model. That this talk resulted in so little subsequent action, and where the weakness in the Commission's model lay will be explored in the ensuing sections.

The beginning of the Commission was marked by a significant change in the public discourse on accommodation. Starting in July 2007 the instances of media coverage of accommodation affairs decreased considerably, and there was a more reserved tone to the reports. Public attention turned to the Commission's consultations; though there remained much talk, it was focused on the Commission itself and the content of public statements. What was clear immediately was the desire among Quebecers to speak and be heard. Sentiment was vociferous and diverse; many voiced concern that the forums would merely provide xenophobes with public attention while others countered that members of the public should be given more credit and deserve to speak their minds. Still others argued that the Commission itself was racist as it was co-chaired by two "old white men" and didn't do enough to counter systemic biases. Several commentators noted that Quebecers were eager to seize the deliberative opportunities. This was recognized among the public as well, as one interlocutor stated at one of the Montreal forums: "This is an opportunity to speak for ourselves instead of

having someone speak for us” (Bouchard and Taylor 2008, 36). The importance of deliberation and public guidance and input in legitimating elite decisions was reinforced by numerous statements revealing the lack of trust between the public and those who would traditionally speak for them, as the co-chairs summarize:

Elected representatives are accused of having failed to do their duty in the accommodation crisis, judges are harshly criticized for not taking into account the population’s expectations by handing down verdicts that are contrary to society’s values, suspicion is cast on the media, managers in the schools and other public establishments are castigated for displaying spinelessness in the handling of adjustment requests, intellectuals (“out of touch” in their “ivory tower”) are singled out for discounting the culture of the majority group and displaying indifference to its history, heritage and everything that makes up its identity (Bouchard and Taylor 2008, 206).

The forums allowed one-way dialogue from the speaker to the co-chairs and public, and revealed many important elements of the nature of the accommodation problem. Rational ignorance and rational error were often on display, in statements such as “All that immigrants think about is recreating here the society that they left”; “Immigrants don’t obey our laws”; and “Quebec doesn’t need immigrants since they take jobs away from us” (Bouchard and Taylor 2008, 215). The deliberative/expressive model also allowed people to highlight the disconnect resulting from differing interpretations and understandings of meaning. This is exemplified when one considers the hijab debate, which centred on the question of whether religious veils should be permitted in public space, particularly in the public service. Opponents of the veil viewed it as a specific expression of intent on the part of the wearer to mark herself apart, and saw it as a statement of not embracing or accepting the shared public space. Muslim women, on the other hand, maintained that in wearing the veil they were making no statement whatsoever, apart from demonstrating a personal attitude of obedience to their understanding

of G-d's will.<sup>9</sup> The forums themselves often involved cooperative communication, wherein discursive norms were broken in order for participants to convey their point. Another element indicative of the deliberative model is that political correctness and taboos were often ignored, which the co-chairs note often revealed the honesty and truth of an intervener's statements, as opposed to obscuring them (Bouchard and Taylor 2008, 37). Intervener's came to present testimony to the co-chairs, but often spoke out directly to the rest of society. This was especially significant for immigrants and members of ethnic minority groups, who were given the opportunity to address the majority society and declare their stories and desires without the intermediary courts or representative organizations.

Though much of the dialogue occurred one-way from the individual intervener out, there were also many instances of communicative exchanges amongst the public. Many interveners came forward to respond to the statements of others. This created a kind of back-and-forth that demonstrated that people were often listening to each other and providing narratives incorporating elements of framing for deliberation, as opposed to simply persuasion. After some incidents of interveners coming forward with offensive remarks, particularly about Muslims, many Quebecers came forward with details of their positive experiences of Muslims integrating into Quebec society, notably Quebec Muslims themselves (Bouchard and Taylor 2008, 36). In presenting their stories and exposing the two facets of their identities at once, these individuals expressed their devotion both to their religion and to Quebec. Their statements were often met with applause from the other participants – a testament to the transformative possibilities not only felt by the audience in response to a speaker, but also felt

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<sup>9</sup> The author's own religion prohibits the marring or destruction of the written name of G-d. To facilitate future editing and recycling of these pages, I therefore write the word with a hyphen, to convey the meaning without writing the word.

by the speaker in exchange with the audience.<sup>10</sup> Through such exchanges in the deliberative model, individuals were able to be empowered to assert their identities (as Quebecers and Muslims, for example), explain their positions to society, and receive recognition and affirmation in return.

### ***Aftermath***

In the wake of the Commission's investigation, the debate over accommodation issues waned considerably. It seemed people were willing to wait for the co-chairs report before continuing the discussion. The feeling of urgency and crisis had dissipated; an early victory for the Commission. When the report was released, it was able to clarify many of the misconceptions of fact that had incited the crisis to begin with. It failed to resonate with the public, however, many felt as though the report was not a reflection of what they had been saying.<sup>11</sup> Without significant public support, the government had little incentive to institute

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<sup>10</sup> One instance that illustrates this point occurred at one of the Montreal forums, wherein woman began to speak in a language no one recognized. The audience and the co-chairs reacted with impatience and frustration; the co-chairs interrupted her and instructed her that to be heard she must speak in either English or French. The woman then stated in English that she had been speaking in Cree, one of the languages of Canada's First Nations. Once she had explained herself, the atmosphere changed and the audience applauded the woman. She went on to make a statement about the socioeconomic issues affected First Nations communities in Quebec, but the initial exchange served to demonstrate that by adapting unconventional discourse norms and through reason-giving, public reaction to a speaker could be altered, and through interaction the speaker could receive recognition and affirmation.

<sup>11</sup> The disconnect between the co-chairs and the people was best summarized by well-known author Djemila Benhabib: "Charles Taylor et Gérard Bouchard n'ont rien compris au Québec d'aujourd'hui. Ils ont convoqué les gens pour les écouter, mais leurs conclusions n'en ont pas tenu compte; ils avaient tout décidé d'avance" (Perrault 2009). Respondents to coverage of the report in *Le Devoir* articulated scepticism that the co-chairs had no alternate agenda, as in this statement from Zach Gabello: "Donnons-leur alors le bénéfice du doute que ce rapport juvénile sur le plan de la réalité est dû...sûrement beaucoup de pression directionnelle par le pouvoir." The distance between the co-chairs and citizens, and the inability of the report to reflect Quebecers' views was also critiqued, as in this statement by Roland Berger: "La commission Bouchard-Taylor n'a pas été l'occasion d'une thérapie collective. Elle a plutôt été l'occasion de l'élite intellectuelle québécoise de se scandaliser des propos de

legislative action stemming from the Commission's recommendations. Both the document itself and subsequent reaction highlight the benefits of the mixed model, and some challenges that must be improved upon if deliberation is to be effective.

In producing the report the co-chairs were informed by citizens as well as professional expertise, which enabled the authors to debunk many of the myths promoted through rational error and ignorance. This involved not only responding to many of the false claims that were made during the testimonies, but expertise also informed the consideration of testimonies themselves and helped bring to light distinctions between the common perception of events and what actually occurred. As previously mentioned, there was much concern regarding the pitfalls of the expressive potential of the forums, with considerable criticism throughout the proceedings that people – particularly in rural Quebec – were overwhelming the process with their xenophobia. Contrary to these concerns, the report attested to participants' personal experiences that respectful engagement far outweighed offensive tirades, and referenced research documents they had delegated that confirmed personal experience with statistical evidence. These reports reveal that negative, offensive statements comprised approximately 15 per cent of total remarks, a proportion that was consistent province-wide (Bouchard and Taylor 2008, 36). The deliberative model stresses evenly biased and factual information be provided to the public in order to inform dialogue: the Commission's model failed to provide that to people during the debate (which I will return to later), but it showed great potential for responding to issues of fact that came up during the forums, and utilizing the public to give direction to professional research.

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Québécois peu instruits..." Both responses to *Le Devoir* articles made by online response the 23 May, 2008. <http://www.ledevoir.com/cgi-bin/EditionDu>

A statement often given to the Commission, and a central recommendation of the resultant report, was that immediate action was the required (Bouchard and Taylor 2008, 218). The co-chairs compiled a list of 37 recommendations to the government, calling for such things as: renewed government dedication and definition of intercultural and secular principles and policies; broader training for public employees in regards to accommodation and intercultural practices and expected norms; increased action in order to combat continuing underrepresentation of ethnic minorities in jobs in public administration; increased support for immigrant women; and greater resources to combat the multiple forms of discrimination observed in racialized groups, particularly Blacks (Bouchard and Taylor 2008, 265-72). In the transition back into purely representative democracy, however, the Commission seemed to lose all authority to speak on behalf of the public who spoke to them, leading some commentators to declare it dead on arrival. Premier Charest immediately rejected the reports call for 'open secularism' (religious freedom for individuals within religiously neutral public institutions) by rebuffing their recommendation to remove the crucifix from the National Assembly with a motion expressing dedication Quebec's religious and historical heritage. In fact, the government primarily acted only on the recommendations that reflected overwhelming public support. The government indicated it would consider providing a resource for policymakers facing accommodation questions. This mechanism came in the form of a 1-800 advice line, operated by the Commission des droits de la personne et des droits de la jeunesse, which already served to provide advice on interpreting the Charters (MacPherson 2008). Since the publication of the report, the government has reaffirmed its dedication to the promotion of French as the public language of Quebec, and to the equality of the sexes. More controversially, the Charest government instituted a mandatory ethics and religious culture course in elementary schools, to educate students about all religions, reflecting the



Commission's emphasis on the importance of early education and promotion of diversity and cultural understanding.

The report failed to carry the weight of public opinion, which led to challenges within the representative model as to which representatives actually spoke on behalf of the people: the co-chairs or politicians. The leader of the Opposition, Mario Dumont and the leader of the PQ, Pauline Marois, both denied the co-chairs' statement that the accommodation crisis was mostly a crisis of perception. Marois insisted Quebec had a crisis of identity, of which the co-chairs had missed essential elements in a one-sided attempt to promote accommodation, as she stated "En fait, au lieu de réconcilier les pratiques d'accommodement aux valeurs des Québécois, le rapport cherche plutôt à réconcilier les Québécois avec les pratiques d'accommodement" (Shields 2008).<sup>12</sup> Undermining the legitimacy of the report, Marois argued that the identity crisis could only be addressed by elected representatives (CBC News 2008).

The report also failed to alter public opinion. Debate continued in the media after the release of the report, with largely the same opinions being promoted as before the Commission. Léger Marketing data collected a year after the release of the report showed the public was split along the same demographic lines as before: younger people remained more accepting of hijabs in public spaces than older Quebecers; Francophones remained more inclined than non-francophones to believe immigrants to Quebec should relinquish their customs and assimilate into the majority culture (Jedwab 2009). Even within the same demographic positions remained relatively constant: 40 per cent of francophones viewed non-Christian immigrants as a threat to Quebec society in 2008 compared to 32 per cent in 2007; 32 per cent of non-francophones viewed non-Christian immigrants as a threat to Quebec society in

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<sup>12</sup> "Rather than reconciling accommodation practices with the values of Quebecers, the report sought to reconcile Quebecers with accommodation practices."

2008 compared to 34 per cent in 2007. Jack Jedwab of the Association for Canadian Studies noted that “if the hearings were designed to change attitudes, that has not occurred” (Scott 2009).

Though the report was received harshly, the Commission did succeed in altering the public discourse, if not public opinion (which in fact was not a goal of the design). The debate around accommodation has continued, but the tone of the debate has been far more reasonable. Issues that previously grew to become highly publicized affairs have not garnered such attention or public outcry, and Hérouxville and its like have faded from the public scene. The ADQ, which soared to Official Opposition status riding the wave of public anxiety, suffered in the 2008 provincial election campaign, falling from 41 seats to 7 (with a 50 per cent drop in its share of the popular vote). Accommodation failed to be a salient issue in the 2008 election. Issues of accommodation have continued to arise, and the debate is far from resolved, but in the wake of the Bouchard-Taylor Commission the sense of crisis has dissipated (MacPherson 2009).

## **Conclusions and Recommendations**

The Commission presented a unique opportunity to incorporate elements of deliberative practice into identity debates within traditional representative democracy. It had only partial success, but the experience of the Commission has several ramifications for how to approach the mixed model of democracy in the future, a likely necessity given the multicultural and pluralistic nature of contemporary societies. Ultimately, the Commission was very successful at getting people out to talk, but much less successful at translating that input into

influential output. This significant shortcoming was the result of a failure to recognize the differences between the democratic models and adequately plan for transition from one to the next.

Certain elements of the Commission proved to be very successful. Structurally, the Commission achieved a high level of participation from a wide array of participants. Lack of diversity in deliberation is often a significant obstacle for practitioners, as it generally results in further solidification of views, as opposed to the reverse, and thus efforts must be made to avoid capture from certain polarizing groups, or homogeneity of participants (Gastil and Levine 2005, 24). Despite concerns over the potential of extreme views overwhelming the process, the expressive elements of the model did nothing to derail the deliberation. If anything, the presentation of more extreme views inspired other citizens to respond with calm, reasoned explanations in defence of their views. Further, virtually all segments of society were represented during the forums, and brief submissions and professional research served to compensate for any group that was underrepresented. The conversation over identity was enriched through the deliberative process because intra-group differences were also brought to the fore, as opposed to the single official positions of organized representative groups. The process also revealed a high degree of trust and social unity; the vast majority of interveners spoke with respect for those with whom they disagreed. Even those who protested the Commission did so in a peaceful and controlled manner, and the police guarding the process responded with calm and restraint. In a situation that easily could have degenerated, the Commission's many forums for participation served to focus all sides of the debate, and care was taken by to ensure that their message could be not only heard, but considered. The Commission had a significant effect on framing the continuing debate and bringing out a more

tempered dialogue. The report itself – though poorly received – served to make explicit some of the nuances of the multicultural environment in Quebec.

The co-chairs established a mostly deliberative process that overlooked a key deliberative principle: deliberation involves not only the presentation of options and consequences, but the careful weighing between them. In a fully deliberative event great care is made to ensure that balanced (though not ‘objective’) factual evidence is provided to participants on an ongoing basis in order to avoid rational ignorance and error. Further, as the process evolves a tight feedback loop of information is kept between participants and organizers. At some point talk does have to be summarized and organized, but effort is made to ensure participants are part of that process as well, to ensure that what organizers are hearing is indeed what participants are saying. The Commission had all the right input, but there was no adequate feedback to the population during the process, allowing for the persistence of a severe gap between the experience of participants in the Commission and the perception of the wider public. The report attempted to narrow the gap, but they had already left the public behind, leaving the impression that the only deliberation was between the co-chairs themselves.<sup>13</sup>

This is directly connected to the second main problem with the Commission’s mixed design: the failure to negotiate the legitimacy of the proceedings, and translate the findings back into representative politics - a common challenge for deliberative events. Public statements to the Commission reveal that many felt public input was required to legitimate any debate or decisions on accommodation. Pauline Marois’ statement that the identity crisis could only be solved by elected representatives, and Jean Charest’s rejection of many of the

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<sup>13</sup> I would like to thank Charles Breton for articulating this critique.

Commission's recommendations demonstrate their belief that legitimacy lies in the decisions of elected officials. The connection between public input and the recommendations of the co-chairs was too thin, and the report carried none of the weight of public authority. In the end, the greatest benefit from the Commission went to Charest. Apparent in the March 2007 election, the Commission did not take the accommodation issue out of the political arena. Rather, as the forums continued through the summer and fall of 2007, and the public was able to voice their opinions and concerns, they had less need of the representatives who rose to prominence on the accommodation issue, which was reflected in the return of the Liberals to majority status in 2008 and the collapse of the ADQ.

Finally, the co-chairs made a miscalculation about the nature of identity that had grievous effects on the relevance of their report. Taylor and Bouchard admittedly picked their battles, selecting to focus on intercultural relations within Quebec through the majority-minority relationship in the province, while excluding as much as possible the minority identity of Quebec within the Canadian majority.<sup>14</sup> Recognizing (as they did in the report) the incredibly interconnected and overlapping nature of individual identity, it was folly to presume that one significant aspect of Quebecers' identity could be set aside in a broad debate about values and aspirations for society. This weakened the report considerably, contributing not only to the PQ rejection of the report, but inciting sovereignists like Jacques Parizeau, Pauline Marois and Gérard Bouchard to continue publicly debating accommodation within the péquiste tradition

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<sup>14</sup> The co-chairs say only that their report will consider problems only "within the limits of the existing constitutional framework" (Bouchard and Taylor 2008, 34). In a conference held by the Centre de recherche en éthique de l'université de Montréal in May 2009 Will Kymlicka criticized the co-chairs for debunking the myth of an accommodation crisis while sustaining the myth that Quebec interculturalism and Canadian multiculturalism had pertinent differences (a myth he claimed rested squarely within the nationalist discourse in Quebec). Charles Taylor responded that the decision was deliberate on the part of the co-chairs, an effort to focus on one part of the debate without being drawn into the continued sovereignist question.

after the release of the report, distracting from its message. This experience speaks back to theorists such as Deveaux who argue for a more controlled and practicable deliberation by limiting the debate to interest, or otherwise excluding elements of identity.

The experience of the Bouchard-Taylor Commission shows that incorporating deliberative processes into debates about identity politics can have alleviating effects to the frustrations of representative politics, while avoiding the pitfalls of expressive democracy. Citizens clearly want to be heard, but improved feedback processes and information dissemination are required to fully reap the benefits of public deliberation. Politicians are unlikely to sacrifice their control over the legitimacy of public decisions, yet better designed democratic processes will help to bring together public sentiment and enable the public to speak more authoritatively to their representatives. Identity cannot be directed from above, therefore in order to mitigate identity conflicts and build social unity and trust, public participation and transformation are required. Advances in the mixed model of democratic design will ultimately allow for more comprehensive discourse regarding matters of identity politics, essential to societies in situations of evolving pluralism.

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