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The Ethical Problem with the Quebec Charter of Values

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Policy considered: Quebec Charter of Values

Even prior to this week's publication of Quebec's proposed Charter of Values, its prohibition of "ostentatious" religious symbols being worn by public employees had come under heavy criticism. Critics suggested that it violated the Canadian Charter of Rights and Freedoms through its interference with religious freedom. They also suggested that it violated international and domestic human rights laws. On this blog Jennifer Koshan noted the discrepancy between the Charter of Values and the constitutional values recognized by the Supreme Court of Canada in the Quebec Secession Reference ([here](#)).

In this post I suggest a further problem with the Charter of Values, one that does not necessarily speak to its legality, but rather to its ethics. Specifically, I argue that the adoption of the Charter undermines the ability of those subject to it to achieve ethical lives, and it does so without justification sufficient to warrant that effect.

The concept of ethics I rely on comes from Bernard Williams, who suggests that ethics is a broad category incorporating the various concepts used to answer the question, "how should one live?" Morality is a subset of ethics, and refers to the duties and obligations that follow from the impartial principles governing human interaction (Bernard Williams, *Ethics and the Limits of Philosophy* (Cambridge: Harvard University Press, 1985) at 6 and 14). Morality is not co-extensive with ethics, and the accomplishment of a moral life will not be sufficient to ensure the accomplishment of an ethical one. An ethical life additionally requires that a person have the opportunity to pursue projects of central importance to her, those things that give her life meaning and without which she would experience her life as unimportant and lacking in value. As further explained by Susan Wolfe, the ethical category of meaningfulness involves, "loving something (or a number of things) worthy of love, and being able to engage with it (or them) in a positive way" (Susan Wolf, *Meaning in Life and Why it Matters* (Princeton: Princeton University Press, 2010) at 26).

Williams further suggests that the pursuit of meaning – what he calls ground projects – may be inconsistent with moral demands in some circumstances. That inconsistency does not, he notes, result in an excuse from compliance with moral demands. It means only that a person faced with a conflict between morality and meaning will, if choosing to comply with morality, suffer a loss of integrity, and a loss that will impact her ability to achieve an ethical life. She may act morally, but at an ethically material cost.

Williams illustrates this point through describing the life of a fictional painter “Gauguin” (Bernard Williams, “Moral Luck” in *Moral Luck: Philosophical Papers 1973-1980* (Cambridge: Cambridge University Press, 1981)). Gauguin abandons his wife and his children in order to paint in Tahiti. Williams suggests that while Gauguin’s family (and others) can legitimately criticize the morality of that choice, the ethical significance of Gauguin’s pursuit of his craft cannot be denied, particularly given the objective value and worth of the art that Gauguin created. Gauguin’s life may thus be morally bad, but ethically good. Further, had Gauguin made a different choice, he would have suffered a loss of integrity, one that has significance in assessing whether that choice was the one Gauguin ought to have made in answering the ethical question, “how should one live”.

How does all of this relate to the proposed Charter of Values? I think it illustrates two points. First, it identifies a significant aspect of the cost that the Charter of Values would impose on those to whom it applies. One’s religious beliefs and the expression of those beliefs are obvious examples of things that will make a person’s life meaningful. Even for an agnostic like myself, it seems evident that one’s faith, and the values of one’s religion, fall into the category of things that a person can love and actively pursue, and that merit that love and pursuit. By requiring a person to abandon compliance with his religious beliefs and values to maintain his public sector employment, the Charter of Values would require him to abandon that which makes his life meaningful to keep a job. Complying with the Charter of Values will require him to violate his integrity; failure to comply will result in the loss of his livelihood (which might in turn require the sacrifice of other things of value and importance to his life). Arguments like Yosie St Cyr’s on Slaw, that “Leaving your cross or your head scarf from 9 to 5 to work for the government is not an imposition nor does it remove from who you are,” fail to recognize the costs of the choice that the Charter of Values would impose.

Second, Williams’ analysis indicates the insufficiency of the justification offered for the broad and strict restrictions that the Charter of Values would impose. As Williams observes, moral duties and obligations following from impartial principles may be used to justify the restriction of other ethical values. There are moral principles such as the prevention of harm or the creation of equality that justify the restriction of religious practices, even if those restrictions undermine the meaningfulness of the lives of the persons to whom they apply. Moral principles justify the imposition of duties and obligations, even when compliance with those duties and obligations will require a person to violate her integrity. But in the case of the Charter of Values, no moral justification has been offered, or could be offered to justify the broad restriction that it seeks to impose. Secularism in the public service is a partial and specific value, one said to arise from Quebec’s history and cultural distinctiveness, not from impartial and universal principles governing human interaction. To use a culturally specific value to impose this sort of cost – a compelled choice between one’s livelihood and the creation of an ethical life – is wrong.

I am not suggesting that we may never disrupt a person’s ability to achieve meaning except on the basis of moral claims or values. Since meaning is necessarily subjective, at least in part, it may be that the operation of law disrupts a person’s ability to achieve a meaningful life. That fact will not, in and of itself, demonstrate such a law’s illegitimacy. Where, though, the direct and central effect of a law is to disrupt the meaningfulness of the lives of those to whom it applies, only the sort of serious justification associated with a moral claim ought to be sufficient.

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