FREEDOM OF RELIGION OR FREEDOM FROM RELIGION?
THE NEW LAÏCITÉ IN FRANCE

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INTRODUCTION

Much has been made of the highly visible presence of an Islamic entity in France in recent decades, but the state’s remedy for what they see as an attack on the desired secular Republic has been a series of refusals and legislative actions that contradict the very law and Constitution cited as support for the exclusionary laws targeting Muslim practices. When Muslims, primarily from the former French colony of Algeria, began arriving in the Métropole\(^1\) in the 1950s and 1960s to fill the post-WWII need for labor, neither the French population nor the public officials who recruited foreign labor expected the situation to become permanent. The male immigrants themselves, who had left their homes and families for purely economic reasons, had no initial intention of permanent residence in France. They emigrated in hopes of obtaining work that was unavailable in their countries of origin in order to take money back to their families when they returned. This was to have been a remedy for the economic hardships in many Arab countries and a temporary solution to the vacancies left in the French work force by two world wars and subsequent openings brought about by the economic boom of 1945-1975, but the immigration laws were changed to allow the additional immigration of those workers’ families. Thus the Algerian workers who accepted the jobs not only stayed but brought their spouses and children for permanent residence in order to take

\(^1\) The “metropolis,” or mainland France, as opposed to its overseas territories.
advantage of the economic opportunities offered in France and to escape the political instability stemming from the 1962 end of French colonial rule in Algeria.

Yet even these added residents did not trouble the French citizenry or its lawmakers until the economic downturn of the 1970s, when the French began to take notice of concentrations of Muslims and their foreign customs in certain sections of major cities.

The first objections to the Muslim presence in France consisted of concerns that foreigners were taking jobs that should have gone to French citizens. Frenchmen feeling the pinch of the retreat of thirty years of economic prosperity now wanted those jobs back and seemed to forget that the work taken on by Muslims consisted, for the most part, of unskilled labor positions rejected by French citizens who had followed the trend of white-collar jobs in the technology field rather than factories or the service industry. Frustrations settled on Muslims who drew their livelihood from French employers, and attention focused on the increasing numbers of Muslims living in France.

Added to economic resentments was the realization by the 1970s that Muslim populations had no desire to abandon the customs that differentiated them from the surrounding French culture. Ethnic minorities and immigrant communities began calling for the right to be culturally, socially, religiously, or nationally different from the French majority, and it was then that France first felt the challenge to its identity. By the mid-1980s it became clear that the majority of immigrants from former French colonies (mainly North Africa) would settle permanently in France. By
the late 1980s, immigrants from Algeria, Tunisia, and Morocco made up 40% (over 1.5 million) of foreign residents. Added were an estimated 1.5 million Franco-Maghrebis – those of North African origin but also of French nationality. The legitimacy of immigrants’ presence on French soil and their relationship to French society became targets for disillusionment, resentment, and hostility toward immigrants, sparking political debates and a societal divide.

Feldblum writes that the religious and cultural particularities of the immigrants were considered a menace to national unity, a weakening of the traditional French institutions and universal values that had previously permitted the integration of foreign populations. Results of a 1985 poll published in the *Nouvel Observateur* reported that 64% of children born in France were of noncitizen parents but held citizenship themselves, and those polled believed that these citizens of foreign origin should adopt the customs and values of French society. Only 28% believed that children should “conserve, if they want, the customs and values of the country of origin.” Another poll, published in *Paris Match* in November 1985, showed more than two thirds of respondents agreeing that “if one does nothing to limit the number of foreigners, France risks losing its national identity.”

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2 Feldblum, citing Leveau & Wenden, 1988.

3 Feldblum, 45.

4 Feldblum, 45.
political parties also denounced a “multiracial society where France loses its identity.”

By 1989, when the veil in schools first became a point of contention and sparked the debate on laïcité that still rages today, a poll by Institut français d’opinion publique (IFOP) published in Le Monde showed an even larger gap between the French-born population and those of Muslim origin, 26% of whom held French nationality. The Muslim population was, not surprisingly, “favorable to public affirmations and specialized treatment,” but the French-born population was “significantly opposed to visible affirmations of difference or special treatment.” Another poll that month, conducted by IFOP and published in Le Nouvel Observateur, showed an increasingly pessimistic outlook in regard to religions, foreign cultures, and integration; 57% of those polled in 1989 thought that religion was an obstacle to cohabitation with the French, and 58% thought Muslim customs posed an additional obstacle, whereas the 1985 figures had been 23% and 49%, respectively. Concerning issues related to the practice of Islam in public – the construction of mosques, serving food that met Muslim dietary restrictions in school cafeterias, official holidays for Islamic holy days, wearing the foulard (the Islamic headscarf) - drew the conclusion that foreigners must adopt French customs and values.

5 6 June 1985. Le Figaro, cited by Feldblum 41.


7 Feldblum, 141.
At the beginning of the 21st century, 16.9% of French residents under the age of 18 had immigrant parents, a figure that rose to 40% in Paris, and in several cities and towns, children of immigrants made up the majority of the population under age 18. Eighty-five% of Muslim students described their religious beliefs as “very important,” versus only 35% of non-Muslims, and their unwillingness to renounce their religious faith to begin anew as exclusively French did not improve public perception of Islam. A 2001 IFOP poll asked Muslims and non-Muslims to describe Islam in three words. Native French citizens associated Islam with “fanaticism, submission, and rejection of Western values,” a far cry from the “justice, liberty, and democracy” that Islam brought to mind for the Muslims surveyed. France’s National Consulting Committee on Human Rights (CNCDH) asked people’s basic feelings about major religions in 2004, and 66% of respondents held negative feelings about Islam, as opposed to 52% for Christianity and 20% for Judaism. It was during this increasingly tense period of the growth of the younger Muslim population that Islam’s French detractors focused on the religious aspect of Muslim immigrants, residents, and citizens and the place that religion occupied in public schools.

A French ministry of education investigation looked into the heavy influence of religion on Muslim children and found that “this is an indoctrination that begins as

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8 Caldwell, 143.

9 Caldwell, 143.

10 Caldwell, 154.
early as primary school... Many schoolchildren, if you ask them what their nationality is, will reply, ‘Muslim.’ If you inform them that they are French, as we did in a junior high school in the Paris suburbs, they reply that that is impossible, because they’re Muslims!”

France now saw that it – and all of Europe – was dealing with “an adversary culture,” and feared what Princeton Islamic scholar Bernard Lewis wrote in 2004: that Europe would “be part of the Arabic west.” Many in France began calling for a renewal of the school to make it an integrative institution that would transmit France’s traditional values and customs and counteract the training of young Muslims to value the religious and cultural identity of their culture of origin above the French culture - as it has always been - surrounding them. Public education for citizens of all economic and social classes had been the great equalizer of the 19th century, and politicians and other state employees in the late 20th and early 21st centuries decided that the French public school would also be the channel through which the Republic would rid itself of what many feared would lead to a level of religious control rivaling that of the pre-revolutionary Catholic Church. Since fears of Islam projected the characteristics of its radical element onto all Muslims, the veil (and later the burqa and other Islamic practices) became targets for hostility. Religion in public schools drew national attention and brought the principle of laïcité

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11 Caldwell, 139.

12 Caldwell, 139.

13 Caldwell, 12.
out of history, interpreting it to reinforce present-day demands for the religion-free society within the comfort zone of a nation still haunted by its past.

The law of 1905 did not prohibit public signs of religious belief and did not actually separate the two entities in the manner now proclaimed by the state. It merely prohibited the state from favoring one religion over another and ensured that no religion could dominate society and force it to function according to the tenets of any faith. Yet rather than following the legislation that wrested control of society from the grip of the Church, the laws enacted by French lawmakers against Islamic practices (wearing the veil or burqa, consuming only meat slaughtered according to Muslim ritual, and remaining faithful to Koran-inspired prayer) actually violated the very legislation said to uphold republican ideals in an attempt to redeem a situation that had spun out of the state’s control. Seeing that Muslim faith and culture were firmly implanted in a European society that viewed any religious presence as a potentially oppressive political power, the French state set out to legislate its way out of a situation it would have prevented with anti-immigration policies had it foreseen the societal upheavals resulting from the perceived threat to France’s homogeneous image of itself. It is these violations of the law, enacted by the French state to construct a society free of religion but proclaimed as freedoms that their Muslim recipients did not want that will be examined in the following pages.
METHODOLOGY

My search parameters initially included only the burqa ban of 2011 and the 2004 law against the Islamic veil in public schools and grew to include a general examination of the idea of laïcité as it pertained to those two areas of conflict. Utilizing the internet search terms “burqa,” “burqa ban,” and “foulard” yielded a multitude of news stories and scholarly articles about the controversy surrounding these first visible signs of the permanent presence of Islam on French soil. Much of the media attention was concentrated on the first nationally known case regarding the headscarf – that of the Creil schoolgirls who were expelled in 1989 for refusing to remove their foulards - and on the Lévy sisters, who chose to be the sole members of their family to wear the foulard. These cases led to brief news stories and statistics about the hundreds of Muslim girls either expelled from public schools for wearing the veil or who had simply chosen to attend private schools in order to avoid compromising their religious traditions.

Reports of France’s burqa ban appeared in the international media as well as occupying a significant place in French news coverage, particularly on TF1\(^\text{14}\) and in the popular daily newspapers Le Monde and Le Figaro. I found an abundance of information through the online outlets of these media sources, though many of the articles contained overlapping information. The primary area of coverage was the

\(^{14}\) TF1 is one of many popular television news channels in France.
date when the law banning the burqa in public would go into effect and the affirmations by state officials of their determination to enforce the new law.

Secondary coverage was given to the women who were arrested during the first months after the law took effect, but the only case receiving particular attention for this issue was one involving the wives of a polygamist who had already been under investigation for that legal violation. Many print and online sources mentioned the small number of women actually wearing the burqa measured against the number of Muslims residing in France\textsuperscript{15}, but it was difficult to find any source that could pinpoint a specific event that triggered what appeared to be a sudden interest in the burqa. Judging by the political statements published online associating the burqa with radical Islam, I determined that the connection was perceived simply because the burqa, although rare by all accounts, recalled the nation’s experience with the foulard, and the state wished to eliminate potential difficulties before the conflict reached the level of the foulard affair.

Whether conducting a general web search or searching the Electronic Journal Center (EJC) and MLA International Bibliography of Periodicals, the term laïcité proved to be too broad, as it brought up more information than could be contained in the scope of this thesis. Sifting through the discussions of laïcité and the situations in which it has been invoked enabled me to narrow my focus, and I began concentrating on laïcité in French public schools. The “laïcité" and “law of 1905”

\textsuperscript{15} Estimates put the number of Muslims in France at 4-7 million, with 2,000-3,000 Muslim women wearing the burqa.
search yielded many conflicts over Muslims requesting halal meat in school cafeterias, letters and statements on behalf of state institutions, and complaints from parents on both sides of the issue. I discovered that the uniformity characterizing the curriculum of French public schools had not spread to other areas of school influence, and responses of school officials to the request for halal choices for Muslim students varied from a level of compliance to outright refusal to accommodate the foreign customs, with a few cases of students being told they were required to consume the entire cafeteria meal, non-halal meat included.

Research on the burqa ban and halal food, however, unexpectedly revealed that the clash of Muslim religious and cultural customs with French customs and institutions had spread beyond classroom walls and led me to renew my research into the veil, this time in a more contemporary setting. The veil, banned only in public collèges and lycées by the 2004 law, drew strong objections again a few

16 The most recent controversy related to halal meat is taking place among the non-Muslim population of France, many of whom have become concerned about being informed of whether or not the meat they purchase from butchers is slaughtered according to halal rituals. There has also been controversy regarding halal food served in restaurants and on airline flights. However, as this issue is more recent and would expand the research beyond an already extensive scope, I have chosen not to examine this particular aspect of the Islam debate.

17 A collège would be roughly equal to an American junior high, while a lycée can be likened to an American high school.
years later in French universities and among those employed by the state. I learned that these *fonctionnaires*\(^\text{18}\) were seen as representatives of the French government and were thus expected to abide by the state’s version of neutrality and set aside their religious symbols and practices while at work, whether in a university setting or at a nationalized business. Just as adolescent girls had been expelled from public schools for wearing the veil, private school and university employees lost teaching and research positions; the most highly publicized cases included the teacher at a private daycare facility in Toulouse and the doctoral student at l’Université Paul-Sabatier in Toulouse who worked in a National Center of Scientific Research laboratory. One woman anonymously blogged that even those employed by the state outside of the educational domain were criticized by colleagues for their non-participation in what are daily interactions for non-Muslims,\(^\text{19}\) and employees in several fields whose salaries were paid by the state lost their livelihoods for wearing the veil to work.

In the course of that research into a general understanding of *laïcité* and tensions provoked by *les pratiques musulmanes* [Muslim practices] in France, a search using the additional terms *prières musulmanes* [Muslim prayers] or *prières dans la rue* [street prayers] provided an abundance of links to news stories (again from TF1, Le Monde, and Le Figaro) concerning the growing conflict between Muslim prayers and France’s current interpretation of *laïcité*. Numerous online articles listed

\(^{18}\) State employees.

\(^{19}\) Muslim women do not shake hands or eat with male colleagues.
the Paris streets (as well as other major cities, such as Marseille and Nice) that were filled with Muslims performing the prescribed prayers on Friday afternoons, and nearly all the major news sources published the identical statements by politicians describing what they saw as an invasion of the streets of France not unlike the Occupation. A search for the Stasi Commission report about the veil in school turned up similar statements about Muslim customs from as far back as 1989, revealing a long-time tendency to view visible religious faith as an encroachment onto French territory.

The sheer volume of some of the public statements about Muslims praying in the streets, added to countless online and print references to laïcité and the manner of neutrality said to be demanded by French law, caused me to return to the general search for information on laïcité and just what it means for the French. I wanted to gain a better understanding of the intensity of the associations and memories that the street prayers and other Muslim practices evoked, and I also wanted to examine what seemed to be the questionable legality of the decisions made regarding Muslims. I took a closer look at the text of the law of 1905, the various French Constitutions (1791, 1946, and 1958), and France’s work code, all used to justify the legislation handed down in the last several decades in reaction to the religious practices that did not fade away as the state had hoped, and I discovered discrepancies in what has been reported about the laïques laws of France and what those laws and legal documents actually do say and, therefore, what they prohibit or allow.
I then organized my findings into a progression that would reveal the circumstances surrounding each development of French laïcité – I say “French laïcité” because there absolutely exists a uniquely French understanding of the term – in addition to the text, followed by the general subject areas that I chose to include in the study and the specific cases illustrating the legal contradictions of the state’s actions. In each case, I examined the laws invoked as justification for the exclusion of Muslims displaying their faith and contrasted the law with its contemporary interpretation. I ended the study with a recap of the law of 1905 and an examination of France’s view of equality and how that may have affected the manner in which the state has instituted neutrality towards religion in an attempt to explain the reaction to Islam in recent decades.
OVERVIEW OF THE LEGAL DEFINITION OF LAÏCITÉ SINCE THE FRENCH REVOLUTION

The idea of laïcité in French schools first appeared in the wake of the French Revolution of 1789, which abolished the political and legal authority of the Catholic Church along with the privileges of the nobility and the absolute power of the monarchy. The Falloux Law of March 15, 1850, made the distinction between public and private schools, yet still allowed for state funding of private schools, provided that the subventions did not exceed ten % of annual state spending. Article 17 defined public schools as those funded or maintained by communes, departments, or the state, as opposed to écoles libres [free schools] that were backed by individuals or associations. Article 69 then offered the possibility for these “free schools” to obtain a measure of state funding under the advisement of academic councils. It appears, however, that the French state was not yet ready to rid itself of all traces of its religious roots; the Falloux Law actually favored Catholic teaching in its primary schools by giving a controlling power to the Catholic church. Additionally, the Laboulaye Law of July 12, 1875, declared that higher education (centralized in 1870 with faculties concentrated in major cities) was to be « libre, » a principle that would be contradicted by the 21st century conflict due to the presence of headscarf-clad professors in state-run universities.

Another category of laws pertaining to religion and public schools sought a further separation of religious influence via education, but this was a deep,
purposeful change designed to establish republican ideals of equality in its students and abolish old ideas of privilege due in part to one’s position in the Church. Religious education was suppressed in public schools in 1881, and the Goblet Law of October 30, 1886, limited public school faculty to secular personnel, effectively eliminating the power and influence of the Church in the institution intended to mold future French citizens. However, the citizenry was as yet unthreatened by the mere sight of attire associated with a particular faith, and there was certainly nothing in the law that required the level of separation that would be insisted upon in the 20th and 21st centuries.

All of these laws eliminating religious control in public schools culminated in the law of December 9, 1905, which 20th and 21st century lawmakers and politicians would herald as the legal precedent for laïcité (secularism). This law is now said to be what separates the Church and the State, yet the conditions surrounding the 1905 law and even the text itself do not call for the complete absence of religion in public life, but for an atmosphere in which the French state does not favor one religion over another. Previous legislation had specifically targeted the Catholic Church because of the privileged political past of the Third Estate and its widespread influence in the educational arena, but 1905 lawmakers sought to regulate the domains in which the public and the religious crossed paths. Article 28 did prohibit affixing religious signs or emblems to public monuments (with the exception of places of worship, cemetery plots, funeral monuments, or museums and expositions), and Article 27 regulated church bell ringing and religious ceremonies, processions, and other exterior manifesta...
that the general public was not inordinately disturbed by the timing of church bells and religious ceremonies, while others eliminated the impression of governmental favor for a particular denomination through a ban on religious icons in buildings utilized for State or public services. The State would not “advertise” - and thus appear to endorse - any one faith. This equal treatment of - not the elimination of - religion on behalf of the Republic was set forth in Article 2 of the 1905 law, which stated that:

La République ne reconnaît, ne salarie ni ne subventionne aucune culte (...) [sauf pour] les dépenses relatives à des exercices d’aumônerie et destinées à assurer le libre exercice des cultes dans les établissements publics tels que lycées, collèges, écoles, hospices, asiles et prisons (...) 

[The Republic neither recognizes, nor employs or subsidizes any religion...except for expenses related to the exercise of chaplaincy and intended to assure the free exercise of religion in public establishments such as high schools, middle schools, retirement homes, psychiatric hospitals and prisons...]

Early 20th century lawmakers, then, ensured that “no religion is to receive financing from the Republic, except for expenses related to charitable contributions or to assure the free exercise of religions in public establishments such as lycées, collèges, écoles, asylums, and prisons.” This did not and does not authorize the
banishment of religion from any physical place or institutional process. It simply ensures that the French government cannot legally subsidize religious organizations and elevate them to positions of political power or authority and is an obvious reaction to and remedy for the Ancien Régime’s (monarchy’s) policy of financial support for the Catholic Church and its discrimination and punitive measures against the Protestant religion. The language of the law clearly allows funds to be transferred for charitable purposes, but more importantly, this law guarantees the free exercise of religion – not just in principle, but in the practice of obtaining an education. The law later cited as the separator of Church and State actually provides for religious exercise in the schools of the Republic.

What the law does not do is establish separate spaces for religious and non-religious ways of life; rather, it admits that there are areas where religion and republicanism overlap. The fact that the French state felt that a law was necessary to regulate religious ceremonies and church bells to avoid interference with the operations of those individuals and organizations that may not share that faith demonstrates state acknowledgement of religion in general and its consent for religious presence in public life. This legislation not only acknowledges the blend of religious and public behavior, but actually guarantees freedom of conscience and the free exercise of religion, subject only to the restrictions laid down in its various articles. This legal precedent does not erect a barrier between the State and the Church; it simply attempts to prevent governmental or political favor from being bestowed on one denomination to the detriment of another.
If the laws enacted to regulate religious influence in public life did not prohibit the intersection of these two domains, neither did the French Constitutions referred to as the legal foundation of subsequent legislation. The Constitution of 1791 states that:

La Constitution garantit pareillement, comme droits naturels et civils :
La liberté à tout homme ... d’exercer le culte religieux auquel il est attaché ... Le pouvoir législatif ne pourra faire aucunes lois qui portent atteinte et mettent obstacle à l’exercice des droits naturels et civils ...

[The Constitution guarantees in the same way, as natural and civil rights: Freedom for every man...to exercise the religious worship to which he is attached...Legislative power can make no law which undermines or obstructs the exercise of natural and civil rights...]

This text thus guaranteed that the free exercise of the faith to which one is attached is a natural and civil right, and a legislative power can make no laws that infringe upon and obstruct the exercise of natural civil rights. Such legal statements assume a continued religious presence in the lives of French citizens, even with the first Constitution to follow the overthrow of the monarchy and its political partner, the Catholic Church.

It was not until 1946 that a French Constitution would mention the concept of *laïcité* – a term loosely translated as “secularism.” The preamble confirmed inalienable and sacred rights for all, regardless of race, religion, or belief « Le peuple
français proclame à nouveau que tout être humain, sans distinction de race, de
religion ni de croyance, possède des droits inaliénables et sacrés » [The French
proclaim anew that every human being, regardless of race, religion or belief,
possesses inalienable and sacred rights]. It reaffirmed the rights and liberties of man
and citizen - « Il réaffirme solennellement les droits et libertés de l'homme et du
citoyen consacrés par la Déclaration des droits de 1789 et les principes
fondamentaux reconnus par les lois de la République » [It solemnly reaffirms the
rights and freedoms of man and citizen consecrated by the Declaration of rights of
1789 and the fundamental principles recognized by the laws of the Republic]
provided by the Declaration of the Rights of Man of 1789:

La loi … doit être la même pour tous, soit qu’elle protège, soit qu’elle
punisse. Tous les citoyens étant égaux à ses yeux, sont également
admissibles à toutes dignités, places et emplois publics, selon leur
capacité, et sans autre distinction que celle de leurs vertus et de leurs
talents » (Article VI). « Nul ne doit être inquiété pour ses opinions,
même religieuses, pourvu que leur manifestation ne trouble pas
l’ordre public établi par la Loi. (Article X).

[The law...must be the same for all, whether it protects or punishes.
All citizens being equal in its eyes, are equally eligible for all dignities,
positions and public employment, according to their abilities, and
without other distinction than their virtues and talents (Article 6). No
one should be harassed for his opinions, even religious ones, provided
that they do not trouble the public order\textsuperscript{20} established by the law.

(Article 10)]

Article 1 of the 1946 Constitution then stated that « La France est une République indivisible, laïque, démocratique et sociale » [France is an indivisible, secular, democratic, and social Republic]. A 1958 Constitution repeated that sentence in its first article and assured equality of all citizens before the law, this time without distinctions of origin, race, or religion, and stated that the Republic respects all beliefs – « Elle assure l'égalité devant la loi de tous les citoyens sans distinction d'origine, de race ou de religion. Elle respecte toutes les croyances » [It assures equality of all citizens before the law without distinction of origin, race, or religion. It respects all beliefs].

\textsuperscript{20} Favell defines “public order” not as the expected physical behavior but as the adherence to common customs and beliefs.
This respect for multiple beliefs would be tested in the decades following this most recent Constitution. The conflict in colonial Algeria was nearing its peak, and Charles De Gaulle pronounced Algeria an independent country on July 3, 1962. Many immigrants of North African origin began arriving in France in the 1960s as a result of France’s economic growth\textsuperscript{21} and the need for unskilled labor that went along with industrialization. This need was difficult to fill in a Republic that had lost 10% of its male population in the First World War and whose low birth rate did not replenish its losses, so the French turned to immigrants, mostly of North African origin, to fill those labor needs. The French government expected those positions to be filled only temporarily and in 1956 began erecting hostels designed with single men in mind in hopes of discouraging family settlement,\textsuperscript{22} but North African male immigrants and their families endured the unsuitable living conditions in order to avoid the

\textsuperscript{21} The years 1945-1975 in France, referred to as \textit{Les Trentes Glorieuses} (The Thirty Glorious Years) were characterized by urbanization and economic growth.

\textsuperscript{22} These hostels were built by the \textit{Société Nationale de Construction pour le Logement des Travailleurs} (SONACOTRA) [National Society of Construction for Workers’ Lodging].
economic and political hardships of post-colonial Algeria. Attempts to ban family reunification under the 1974 official ban on immigration were overturned in 1978 by the Conseil d’Etat (France’s highest administrative court); that legal decision and the persistence of North African immigration changed the make-up of the population of France.

Negative views of Muslims had long been brought on by the Middle East conflicts played out on the world stage (Israel & Palestine, Iran & Iraq) beginning in the 1960s. The oil crisis affecting the world economy erupted in the 1970s, followed by the Iran hostage crisis. In February 1989, just as the foulard was becoming a point of contention in public schools in France, the Imam Khomeiny drafted a fatwa (a legal opinion issued by a Muslim religious scholar) condemning Salman Rushdie, the author of The Satanic Verses, to death. For most teachers, the fatwa appeared as a danger to the freedom of thought, and the headscarf was associated with Iranian Islamism and the oppression of women. Fighting flared up in Algeria in December of 1991 when Algerian armed forces halted elections after the Islamic Salvation Front won the primary round of parliamentary elections; civil war and massacres on both sides followed. 1995 saw terrorist attacks in France by cells close to the Algerian-based Armed Islamic Group, along with high-profile television coverage of the bodies of women killed for refusing to wear the headscarf. More recently the 9/11 attack on the United States’ World Trade Center in 2001 rekindled fears of Islam and suspicions of individual Muslims. Though France immediately stepped forward as an
ally of the U.S., the warm relations were short-lived. An ethnographic study published in the February 2004 *French Review* displayed the fears of young French adults about the occurrence of similar attacks on France. Interview responses included such remarks as « J’ai eu peur pour mon pays » [I was afraid for my country], « On n’était pas très fier ici en France; on croyait bien qu’on allait vraiment avoir des attentats » [We were not very proud here in France; we believed that we were really going to have attacks], and « New York, une autre grande ville, pourquoi pas la France ? » [New York, another big city, why not France?]24. These were average young French citizens, afraid that Muslims would follow the thousands of U.S. citizens killed, as well as previous terrorist attacks on French soil, with renewed violence in France. Added to this background of violence and fear, visible differences in the appearance and practices of France’s growing Arab/Muslim population began to cause tensions between the French population and North African immigrants. Even Muslims who were long-time residents of France or even French citizens also saw themselves as fully Muslim, and many retained their Muslim customs and practices. This dual allegiance was seen as threatening to a country intent on unity as

23 An article entitled « Nous sommes tous les Américains » [We are all Americans] appeared on the front page of the September 13 edition of *Le Monde*.

24 For more complete information about this study, see Stacey Katz’s article titled “France after September 11th: From the perspective of Young French Adults,” The *French Review* 77, 3 February 2004: 502-514.
a means to peace, and Muslims became an easy target for the frustrations that began brewing with the economic downturn after the Trentes Glorieuses and the accompanying unemployment.

The national stage was thus set for the upheaval that culminated in L’Affaire du Foulard (The Headscarf Affair) of the 1980s/1990s and the famous Law of 2004. The Affaire originated in September, 1989 at a school in Creil, a large town in northern France. Three girls of North African descent were expelled for refusing to remove their headscarves. By mid-October 1989, what began as an isolated incident had become a national political crisis, with the incident repeating itself in schools across France and sparking debates among politicians, journalists, feminists, and the general public. The conflict stirred up existing controversies, played on the fears of fundamentalist Islam that had developed over the two preceding decades, and brought forth questions about women’s equality and immigrant integration (especially African) into French society. The debates culminated in the Law of 2004, which stated that « Dans les écoles, les collèges et les lycées publics, le port des signes ou tenues par lesquels les élèves manifestent ostensiblement une  

25 The French state often referred to the concept of communautarisme to describe the Muslim tendency to identify with both their Muslim faith practices and the cultural practices and way of life in France. Muslims took what they felt they needed from the Muslim and French parts of their identities, but the French state believed that multiple forms of self-identification necessarily competed with each other and therefore demanded that immigrants choose only one.

appartenance religieuse est interdit » [In public écoles, collèges, and lycées, the wearing of signs or clothing by which students ostensibly manifest a religious affiliation is prohibited]. With the Headscarf Affair, the line between secularity and freedom of religion in public schools became blurred, and France was forced to examine and try to clarify what secularity (laïcité) meant and how it would play out in the context of a mounting Muslim presence with visible signs of affiliation to an entity other than the French State.

Laïcité manifested through the French educational system was not, however, the sole concern of lawmakers and other public figures; before the ban on religious symbols in public schools had taken effect, there was talk pertaining to the Islamic burqua. On April 19, 2003, at Bourget, the congress of the Union des organizations islamiques de France (UOIF), the Minister of the Interior declared his desire for a law requiring an uncovered head when identity photos are taken. Deputy Jacques Myard introduced a proposition on September 23, 2008, just under four years after the headscarf ban took effect, looking to fight attacks on the dignity of women resulting from certain religious practices. Article 1 of this text states:

Aucune prescription culturelle ou religieuse n’autorise quiconque à voiler son visage sur la voie publique ; toute personne allant et venant sur le territoire de la République doit avoir le visage découvert permettant aisément sa reconnaissance ou son identification.

[No cultural or religious prescription authorizes veiling one’s face in public; everyone coming and going on the territory of the Republic
must have their face uncovered easily permitting their recognition or identification.

No cultural or religious prescription authorizes veiling one’s face in public, Myard proposed. Every person coming or going on the territory of the Republic must have their face uncovered to easily permit their recognition or identification. Legislative efforts continued to focus on Muslim attire in public view, and a new law took effect on April 11, 2011, prohibiting the burqa, the niqab, cagoules, and masques in a long list of locations including: streets, public transport, schools and universities, the beach, department stores, shops, movie theaters, parks, cafés and restaurants, public gardens, banks, train stations, airports, administrative offices, courtrooms, hospitals, museums, and libraries. The law stipulated that women wearing the burqa may occupy private cars as passengers and may drive provided the burqa does not hinder rapid maneuvers, and it is permitted in the case of sports

27 « Nul ne peut, dans l’espace public, porter une tenue destinée à dissimuler son visage ».

28 The most comprehensive veil, it completely covers the head and body, and a mesh screen covers the eyes.

29 Composed of one veil to cover the hair and another to cover the face, it leaves only the eyes in view.

30 Hoods.

31 Masks.
practices, artistic or traditional holidays or manifestations, and for religious processions. The new legal notion of “public space” and personal expression was thus detailed, and beginning on that date police would ask women to uncover their faces and show their identification. No woman would be forcibly unveiled, but any one refusing to uncover her face would be brought to the police station and could be subject to a fine of up to 150 euros and forced to attend a civics class.

The relationship put forth by Myard between religious practices as they pertain to women’s dignity and the legal provision enabling law enforcement to recognize or identify these women is at best unclear, but what is evident in both his proposal and the subsequent 2011 law is the intent to further erase the visible presence of Islam in France. The burqa ban, full of contradictions, built on the success of the earlier prohibition of the headscarf (promulgated as a ban on all religious symbols in public schools but in practice the banishment of visible Islamic presence in a major French institution) and claimed to attend to the rights of women and the safety of the public while simply eliminating yet another Islamic practice that reminded the French of the radical Islam so prevalent in the media during the last several decades. As in the 1990s, the 2011 debates relied on feminist arguments against oppression of women at the hands of husbands and religious leaders, while ignoring the fact – professed in major French newspapers such as Le Monde and Le Figaro - that some women choose this attire, even against the wishes of their husbands.

Such a disconnect is understandable in a country where the mindset does not tend toward life decisions based on religious beliefs, but contradictions came
with some of the other legal arguments. The burqa was portrayed in 2011 as a menace to safe physical movements (visibility while driving), much as the foulard (headscarf) of the 1990s was sometimes cited as dangerous for girls in physical education courses. Yet the ban on face covering in public allows the burqa and other coverings for sports practices, an apparent reversal of some of the arguments involved in the Headscarf Affair. Additionally, the gaping absence of specifics in the burqa ban spelling out what constitutes safe and unsafe driving conditions while wearing the burqa creates an ambiguous space where French officials have the ability to handle each incident as they see fit and where the Muslim women involved have no legal recourse. President Nicolas Sarkozy himself called the burqa in 2009 “a sign of debasement” (Parven, 288) and said it was not welcome on French territory.

The differences on the occasion of this added clothing ban were a now well-established penchant for seeing certain modes of dress as indicative of religious radicalism on French soil and the resulting willingness of lawmakers, intellectuals, and the general public to accept another ban on an Islamic practice without a decades-long debate.

Luc Chatel, a spokesman for French president Nicolas Sarkozy, claimed on April 21, 2010, on TF1 News that « Nous légiférons pour l’avenir, le port du voile intégral est le signe d’un repli communautaire et d’un rejet de nos valeurs » [We are legislating for the future, the full body veil is the sign of a communal withdrawal and of a rejection of our values]. In January and in April 2010, Jean-François Copé (head of Sarkozy’s majority conservative party in the French Parliament) concurred, saying that the niqab was not only an article of clothing, but a position and a choice which is
incompatible with the rules of the Republic. He questioned the possibility of living together when a part of the population manifested its rejection of the other by masking its face\textsuperscript{32} and reiterated arguments from both debates: « C’est un problème de respect des femmes et de sécurité »\textsuperscript{33} [It is a problem of the respect of women and of security]. On December 31, 2010, Nicolas Sarkozy promised French citizens that in 2011: « Je le ferai mon devoir ... en respectant scrupuleusement nos principes républicains les plus chers » [I will do my duty and take care to scrupulously respect our dearest republican principles].\textsuperscript{34} He did not elaborate on what those “dear republican principles” are, but while advocating the refusal of communalism he assured the populace that the burqa prohibition would be « appliquée dans l’esprit comme dans la lettre » [applied in the spirit as in the letter] of the law.\textsuperscript{35}

Sarkozy did keep his New Year’s Eve promise. A woman in Les Mureaux (a city of 31,490 in the north-western suburbs of Paris)\textsuperscript{36} was arrested the very day the law went into effect, and government officials levied the maximum fine of 150 euros.

\textsuperscript{32} « Et qu’est-ce que vivre ensemble quand une partie de la population manifeste son rejet de l’autre en masquant son visage »? [What does it mean to live together when a part of the population manifests its rejection of the other by covering her face?] 8 January 2010. \textit{Le Figaro}.

\textsuperscript{33} 8 January 2010. \textit{Le Figaro}.

\textsuperscript{34} 31 December 2010. \textit{Le Figaro}.

\textsuperscript{35} 31 December 2010. \textit{Le Figaro}.

\textsuperscript{36} \url{www.annuaire-mairie.fr}. 
Predictions of difficulty in consistently applying the law were realized on the second day, when police reactions differed from the *Mureaux* case. A veiled woman was refused admittance to the Saint-Denis city hall (also in the northern Parisian suburbs), where she had presented herself for administrative business. She refused to comply with police requests\(^{37}\) to verify her identity but was “made aware”\(^{38}\) of the law without being arrested. Interior Minister Claude Guéant affirmed that “La police et la gendarmerie sont là pour appliquer la loi et elles appliqueront la loi” [The police force is there to apply the law and they will apply the law].

One month after the law, approximately 30 women had been arrested, and arrests for this offense continued to take place nearing the end of 2011. Three women were condemned to a fine of 140 euros by the Nantes court (the nation’s 6\(^{th}\) largest city, located in the west of France), two of the women having been the object of a complaint in front of the public school where they were taking their children on October 6. These two women (the third, who was the object of a similar offense in Nantes in July 2011, did not appear and received a fine of 140 euros) renewed their refusal to uncover their faces on November 21 at the courthouse, where they were refused entrance, and a new report was drawn up. Interestingly, two of the women involved in these most recent cases are the wives of Lies Hebbadj, a polygamist who had been the subject of media coverage in April 2010 - for defending one of his...

\(^{37}\) Law enforcement forces do not have the power to physically force women to remove their veils, but according to the law, those who refuse police requests will incur a maximum penalty of 150 euros and/or required to attend a citizenship class.

\(^{38}\) sensibilisée
concubines (charged with wearing the niqab while driving) and for accusations of domestic violence – and the third woman is a friend of these wives. Given the ambiguous nature of the law and the potential for inconsistent application by law enforcement and the judicial system – regardless of one’s beliefs about polygamy – suspicions arise from the fact that three women connected with a highly visible Muslim man engaged in an Islamic practice illegal in Western countries.

Recriminations due to the burqa did not begin with the afore-mentioned cases, however; cases of nationality, education, and social service discrimination against burqa wearers prevailed for several years before the ban went into effect. On June 27, 2008, the Conseil d’Etat confirmed its decision to deny French nationality to a 32-year-old Moroccan woman, married to a French man and mother of three children born in France, because by wearing the burqa she « a adopté, au nom d’une pratique radicale de sa religion, un comportement en société incompatible avec les valeurs essentielles de la communauté française, et notamment le principe d’égalité des sexes » [had adopted, in the name of a radical practice of her religion, a behavior incompatible with the essential values of the French community, and notably the principle of equality of the sexes].

A first request for French naturalization was rejected in 2005 for the ambiguous « faute d’assimilation » [failure to assimilate]. According to the government commission, the woman had made three attempts with social services or the police “covered with

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the clothing of the women of the Arabian Peninsula, long robe falling to her feet, veil
masking her hair, forehead and chin, and a screen masking her face and revealing
her eyes only through a slit.” Article 225-1 of the Penal Code states that « Constitue
une discrimination toute distinction opérée entre les personnes physiques à raison
de...leur appartenance ou de leur non-appartenance, vraie ou suppose, à...une
religion déterminée » [distinction between persons according to their membership
or non-membership, real or imagined, in a determined religion constitutes
discrimination], yet the Conseil – without mentioning the word “burqa” - considered
that the decision to deny naturalization did not disregard the constitutional principle
of freedom of religious expression.

In August 2009, the prefecture of the Rhône declared that a family in
Vénissieux, on the outskirts of Lyon, was refused public housing the previous July
because the spouse wore a burqa. The prefecture made three attempts to have the
dossier of Medhi, his wife, and their three children approved by the French
government, but the family’s application was refused each time. Only one landlord,
la Sacoviv, justified his refusal. The reason: the wife was dressed in a burqa, which
did not seem to fit the criteria: « Madame revêt la burqa, ce qui caractérisant une
pratique radicale de la religion incompatible avec les valeurs essentielles de la
communauté française et le principe de l’égalité des sexes » [Madame wore the
burqa, which characterizes a radical practice of religion that is incompatible with the
essential values of the French community and the principle of equality of the sexes],
wrote la Sacoviv in a letter addressed to the prefecture. This landlord had no legal
basis for his actions, as the public ban of the burqa did not exist at that time, and
according to Article 5 of Law 89-462 of July 6, 1989, « Aucune personne ne peut se voir refuser la location d’un logement en raison de...son appartenance ou sa non-appartenance vraie ou suppose à une...religion déterminée » [No person can be refused the renting of lodging for his membership or non-membership, real or imagined, in a determined religion], yet he took it upon himself to withhold a basic need from someone whom he assumed not to share his values. Riding the wave of anti-Islamic sentiment that had begun during the headscarf affair, he cloaked his refusal in feminist arguments and un-named “values.” He did not have the backing of the law in order to exclude those whom he deemed undesirable from the Vénissieux community, yet he did so with the full support of the French state.

Though more heavily covered in the press, the above case was by no means the only occasion of discrimination in the area of housing for Muslim residents of France. A deliberation of La Halde (Haute Autorité de Lutte contre les Discriminations et pour l’Égalité, or the High Authority of the Fight against Discrimination and for Equality) on June 19, 2006, reported that a property owner deduced from the name of a young woman who wished to rent an apartment that she was Muslim. When asked if that was the case, the young woman replied in the affirmative, and the proprietor refused to rent the apartment to her because « les musulmans prient dehors » [Muslims pray outside]. The owner of a home in Nancy refused to rent that home to women wearing the veil and was convicted of religious discrimination by the correctional Tribunal of Epinal, but the Appeals Court of Nancy reduced her punishment to a two-month suspended sentence and 500 euros in punitive damages. The only case recorded by La Halde deliberations where a significant
punishment (one month in prison and 4,000 euros in damages) for denial of housing due to religious convictions ensued was the Paris case of Mme Nathalie Lutz’s refusal to sell her house to a Muslim couple. Interestingly, women wearing the burqa can also receive a one-month prison sentence for a simple – and rare – choice of attire.
THE CONTRAT D’ACCUEIL ET D’INTÉGRATION

In the midst of the conflict not yet covered by a law, the state produced a document that it hoped would facilitate the integration of foreigners: the contrat d’accueil et d’intégration, or CAI (contract of welcome and integration), required of all newly-arrived foreigners since 2007. The CAI’s introduction informs those “admitted to reside in the territory of the French Republic” of France’s strong ties to its past and to certain values that must be adhered to in order to live together:

La France et les Français sont attachés à une histoire, à une culture et à certaines valeurs fondamentales. Pour vivre ensemble, il est nécessaire de les connaître et de les respecter. C’est pourquoi, dans le cadre d’un contrat d’accueil et d’intégration, nous vous demandons de suivre une journée de formation civique pour mieux comprendre le pays dans lequel vous allez vivre.

[France and the French are attached to a history, a culture and certain fundamental values. In order to live together, it is necessary to know and respect them. This is why, in the context of a contract of welcome and integration, we ask you to participate in a day of civics education to better understand the country in which you are going to live.]
The contrat goes on to explain that France is a laïque, democratic and social republic that will guarantee the respect of fundamental rights proclaimed in the Declaration of the Rights of Man and Citizen of 1789, “notably” the freedom of opinion, expression, meeting, and circulation. The text then reiterates the state’s desire for immigrants to “respect the laws and principles of the French Republic” and re-emphasizes the place of religion in French society:

La France, un pays laïc

- En France, la religion relève du domaine privé.
- Chacun peut avoir les croyances religieuses de son choix ou ne pas en avoir.
- Tant qu’elles ne troublent pas l’ordre public, l’Etat respecte toutes les croyances et la liberté de culte.
- L’État est indépendant des religions et veille à l’application des principes de tolérance et de liberté.

[France, a secular country

- In France, religion belongs to the private domain.
- Each person can have the religious beliefs of his choice or have none.
- As long as they do not disturb public order, the State respects all beliefs and the freedom of religion.
- The State is independent of religions and sees to the application of the principles of tolerance and liberty].

This document thus blends long-time legal traditions and present attitudes regarding religion and society. The previous citation contains elements of the law of 1905 -
which declares that the state shall neither recognize nor fund any religion and
guarantees the free exercise thereof – and also overt examples of French society's
current view of religion, which relegates any intimation of religious belief to the
private sphere.

It then elucidates only two of what are ambiguously referred to as
and women is a fundamental principle of French society,” states the section titled *La
France, un pays d’égalité* [France, a country of equality]. « Les femmes ne sont
soumises ni à l’autorité du mari, ni à celle du père ou du frère pour, par exemple,
travailler sortir ou ouvrir un compte bancaire. Les mariages forcés et la polygamie
sont interdits, tandis que l’intégrité du corps est protégée par la loi » [Women are
submitted neither to the authority of the husband nor to that of the father or
brother in order to, for example, work, go out or open a bank account. Forced
marriages and polygamy are prohibited, whereas the integrity of the body is
protected by the law]. The following section – *Connaître le français, une nécessité*
[Knowing French, a necessity] - adds the only other “fundamental value” that is
clearly stated in the text: « La langue française est un des fondements de l’unité
nationale. La connaissance du français est donc indispensable à votre intégration et
favorisera le contact avec l’ensemble de la population... L’école est la base de la
réussite professionnelle de vos enfants » [The French language is one of the
foundations of national unity. The knowledge of French is thus indispensable to your
integration and will favor contact with the whole of the population]. Also offered as
incentive is the idea that “the school is the basis of the professional success of your
children,“ and the introduction ends with an alert: “Boys and girls study together in all classes.”

Despite the very brief proclamation of equality between men and women in France, the sections regarding equality and learning French are clearly aimed at Muslim immigrants. Far from being neutral toward religion in general or respecting all beliefs, as the contract and the law claims, the contrat d’accueil et d’intégration points out, in the name of equality and integration, customs that are specifically Islamic. Forced marriages and the submission of women to the men in their families have not been a point of contention with any other immigrant group, and informing immigrants of coed classes in public schools is simply a veiled reference to Muslim wishes for a degree of separation between boys and girls in public swimming pools or physical education courses. This document claiming to better integrate all immigrants in France contradicts its own text by speaking directly to one particular immigrant group – because of its religious beliefs and practices - rather than maintaining the neutrality towards religion that earlier sections of the text had emphasized. The state had already spent years pursuing the Islamic faith and its visible practices and had made rulings and enacted laws accordingly, thus drawing Islam into the public sphere that the state had insisted be vacated by religion and inserting itself into the private space it claimed was legally and constitutionally reserved for religious manifestation. With the CAI, the contradiction became contractual.

The inconsistencies of the state’s position continued with the seemingly reasonable requirements to possess « un niveau de connaissance de la langue
française qui vous permette par exemple, d'entreprendre des démarches administratives, d'inscrire vos enfants à l'école, de trouver un travail et de participer à part entière à la vie de la cité » [a level of knowledge of the French language permitting you, for example, to undertake administrative applications, register your children for school, find work and participate fully in the life of the city]. Immigrants not possessing this level of language competence upon their arrival in France were required to acquire it through a training course sanctioned by a diploma recognized by the state. Enrollment in this free training would be made by the Office Français de l'Immigration et de l'Intégration [French Office of Immigration and Integration]. As previously stated, such training would facilitate participation in society and the educational and subsequent professional success of immigrant children, yet in May, 2008, the Agence nationale pour l'accueil des étrangers [ANAEM – National agency for the welcome of foreigner], an organization charged with training regarding the duties of reception and integration, declared it permissible to deny access to these courses to those wearing the burqa. The Agency declared that such women “impede the progress of the training. The pedagogy put in place for the learning of a language requires that the teacher observe the students’ faces” (L’Express, October 9, 2008). Citing attire that was still legal at that time, ANAEM banned women that France wished to blend into its society from the very instruction designed to accomplish that goal.

La Halde supported ANAEM’s determination with the following statement:

Le contrat d’accueil et d’intégration précisément permet à l’étranger de préparer son intégration républicaine dans la société française. Le
port de la burqa pourrait donc poser difficulté à cet égard. De plus, l’ANAEM met en exergue les difficultés que pose le port de la burqa en termes d’identification ou encore de communication efficiente qui pourrait compromettre le contenu même de la formation. En fonction du contexte, d’autres arguments liés aux pressions que représenterait la burqa pour chacune des autres personnes en cours de formation et/ou pour le corps enseignant ainsi que son impact sur la classe dans sa globalité pourraient également être pris en compte.

[The contract of welcome and integration precisely permits the foreigner to prepare his republican integration into French society. Wearing the burqa could pose some difficulty in this regard. Additionally, ANAEM underlines the difficulty posed by wearing the burqa in terms of identification or efficient communication which could compromise the content of the training. According to the context, other arguments tied to pressures that the burqa would represent for each of the other people in the training course and/or for the teaching staff as well as its impact on the class as a whole could equally be taken into account].

The statement says that the CAI prepares the foreigner for his/her republican integration into French society and that the burqa can pose difficulty in this regard. Additionally, ANAEM highlights the difficulties posed by the burqa in terms of
identification or efficient communication which could compromise the content of the instruction. La Halde also insists that pressures that the burqa represents for others in the course must be taken into account. The burqa does not fit tightly across the face and does not impede speech, nor is it clear how other class members would be influenced to dress in a similar manner, yet this organization - charged with promoting equality and fighting discrimination in public services - targeted a very specific portion of the population for exclusion only one year (October, 2008) after legal measures were put in place to integrate them.

The ambiguous legal reasoning becomes no clearer in La Halde’s analysis of jurisprudence from the courts of Strasbourg and Luxembourg. The organization’s opinion echoed earlier sentiments regarding the burqa and relies on the same feminist and security arguments used to promote the 2004 law:

La burqa porte une signification de soumission de la femme qui dépasse sa portée religieuse et pourrait être considérée comme portant atteinte aux valeurs républicaines présidant à la démarche d’intégration et d’organisation de ces enseignements, obligatoires pour les étrangers admis pour la première fois au séjour en France. Il ne semblerait en outre pas a priori [sic] déraisonnable de considérer que des exigences de sécurité publique, s’agissant de l’identification des personnes, ou encore la protection des droits et libertés d’autrui, pourraient être considérées comme des buts légitimes, prévus par la loi, justifiant l’interdiction du port de la burqa dans l’accès à une formation linguistique obligatoire. Dès lors, une telle interdiction
pourrait ne pas être considérée comme méconnaissant le principe de non-discrimination religieuse.

[The burqa is a symbol of the submission of women that surpasses the reach of religion and could be considered to undermine republican values presiding over the process of the integration and organization of these teachings, required for foreigners admitted to France for the first time. It would not automatically seem unreasonable to consider that the requirements for public security, with regard to the identification of people, or the protection of rights and freedoms of others, could be considered legitimate goals, provided for by the law, justifying the prohibition of the burqa in the access to obligatory linguistic instruction. Consequently, such a prohibition could be considered not unaware of the principle of religious non-discrimination]. 41

This legal analysis speaks of the female submission signified by the burqa, which La Halde claims surpasses the burqa’s religious aspect and could be considered an attack on republican values presented at the onset of integration. It admits that these teachings are required for all those admitted to France for the first time.

41 « Porter la burqa ou s’intégrer en apprenant le français, pour la Halde, il faut choisir ». 10 October 2008. combatsdroitshomme.blog.lemonde.fr.
time but considers it reasonable to ban the burqa in obligatory linguistic courses in the interests of public security when it comes to identification purposes. All that would have been necessary to identify class members is a requirement that the women temporarily reveal their faces upon entrance to the class and then allowing them to put it back on for the duration of the instructional period, but instead La Halde proposed a much more radical solution than the situation required. By all estimations, the heated debate and legal wrangling over the burqa concerned only 2,000-2,500 women out of the estimated 5-7 million Muslims in France, yet National Assembly member Bérengère Poletti declared at Assembly hearings on September 9, 2009, that “even if only five or six women were concerned, it would be a matter of principle” (Parven 288).

No clear justifications are given by agents of the French state in any of the above cases (the refusal of housing, admittance to required language courses, fines and arrests) to justify breaking their own law. The rulings were given two years before the public burqa ban took effect, just as female Muslim students were excluded from colleges and lycées more than a decade before a law was passed against the foulard (headscarf). Many cited the maintenance of public order as the reason for the ban without explaining how a rare article of clothing would trouble the public order in France. Laura Asma, in her article entitled L’interdiction de la burqa en France: Clarifions tous les aspects du débat [The ban of the burqa in France: Let us clarify all the aspects of the debate] July 31, 2009, reminds the public that: « ce qui est important de clarifier est que cette affaire ne doit pas être une question d’Islam, ou qui regarde l’Islam, ou les musulmans, mais une question de laïcité et de
liberté individuelle » [what is important to clarify is that this affair must not be a question of Islam, or what has to do with Islam, or the Muslims, but a question of laïcité and of individual liberty] because wearing the burqa is a rare tradition among Muslims, not a religious prescription. She points out that the rector of the Grande Mosquée de Paris [the great Mosque of Paris] states that the burqa does not formally answer an Islamic prescription. However, what French lawmakers and those in the public eye see in the burqa is a reminder of radical Islam, whether or not it is a cultural or a religious issue. For many, wearing the burqa, no matter how rare, brings to mind the Taliban and the afghan Pachtuns who legitimize this clothing in the name of Islam. Bernard Zimmerm, on the site of the conservative association IFRAP 2012, explains that France must ban the burqa in the name of protecting the public against terrorism: « Pour les terroristes qui veulent du mal à notre pays, la burqa est l’habit idéal car impossible de savoir qui s’y cache, un homme ou une femme. Et il est assez ample pour permettre de cacher une mitraillette et des grenades, sinon un fusil mitrailleur...la burqa doit être interdite en raison des dangers qu’elle entraîne pour l’ordre public et la protection contre le terrorisme » [For all the terrorists who wish evil on our country, the burqa is the ideal article of clothing because it is impossible to know who is hiding themselves, a woman or a man. And it is ample enough to permit hiding a submachine gun and grenades, if not a machine gun...the burqa must be banned for the dangers that it causes for public order and the protection against terrorism].\textsuperscript{42} If this were a legitimate and reasonable concern,

\textsuperscript{42} « La burqa passionne les dirigistes », [The burqa inflames the interventionists.] 19
then long, loose-fitting coats and nuns’ habits should also be publicly banned, as that manner of attire also facilitates the concealment of dangerous items. A man at the center of an anti-terrorist hunt in Britain is alleged to have evaded surveillance officers by disguising himself in a burqa, and a few women have been known to have boarded planes with explosives strapped to their bodies under the burqa, but most crimes concealed by the burqa consist of robberies by gunmen wearing burqas.  

Incidents involving the attire being used to conceal terrorist activities constitute isolated incidents and not a trend akin to Zimmern’s speculations. An article by journalist Jean Chichizola in *Le Figaro* after 9/11/01 cited French security agency statistics estimating the existence of approximately 500 “hard core” surveillance targets in France out of an extremist population estimated at 5,000, representing 0.1 % of a Muslim population itself estimated at 5 million – a number hardly indicative of a Muslim insurgency. French citizens and politicians were simply uncomfortable with an immigrant group that made no effort to conceal their culture.

43 A gunman dressed in a burqa robbed a cash courier in a shopping mall parking lot in Australia, a burqa-clad man robbed a Maryland bank, and a man wearing a burqa whose accomplice carried a gun robbed a jewelry store in Manchester, England.

44 There is no census data based on ethnic or religious classification, though Adrian Favell, in *Philosophies of Integration*, reports that during François Mitterrand’s government statistics according to ethnic origins were kept unofficially and that civil servants were ordered to shred them.
and religion in a country that had long attempted to distance itself from its Christian roots, and it seems that the laws enacted after the fact attempted to ease that discomfort and became juridical justifications for the previous illegal refusals and exclusions. France’s goal was to “homogenize public space by banning religious expression” (Roy, chapter 3), and legislation prohibiting the veil and the burqa were merely methods of declaring lawful what the state had already put into practice.
NEW CONTROVERSIES OVER THE BURQA BAN AND ITS IMPLICATIONS FOR
TEACHERS, HIGHER EDUCATION INSTITUTIONS AND STATE EMPLOYEES

As penalties against the burqa gained momentum, state-supported recriminations returned to those wearing the *foulard* (or veil), this time for teachers in the public and the private sectors and for a variety of state employees, in the name of neutrality for agents of the republican state. One well-known case was that of a student teacher at a primary school in Tournefeuille, a suburb near Toulouse who refused to remove her veil at the beginning of the 2010/2011 school year. Originally a Christian, the young woman had converted to Islam while on maternity leave after having passed the *concours* (competitive university examination) and alerted the *inspection académique de la Haute-Garonne* [academic inspection of Haute-Garonne], which directs the departmental services of national education, of her personal convictions and her decision to wear the veil. On the first day of school in 2010, a national education inspector who was present with the school’s director courteously requested that she remove what covered her head. (This was not the *voile integral*, otherwise known as the burqa; her face and hands could be seen). As she felt that the request was an affront to her convictions and her dignity⁴⁵ and that the *foulard* was not incompatible with the exercise of her functions at the school, she declined to remove her veil and subsequently left the school at the request of the inspector, without having met the students to whom she had been assigned. A

⁴⁵ « Ceci portant à mes convictions et à ma dignité, je ne l’ai pas fait ». [lepost.fr](http://lepost.fr)
disciplinary commission met on November 19, 2010, and unanimously denounced an attack on the principle of laïcité in a public establishment, and the school’s rector, Olivier Dugrip, followed the commission’s recommendation to fire the teacher: « Le principe de neutralité s’impose aux agents publics dans l’exercice de leurs fonctions et leur interdit d’exprimer, de matérialiser, d’extérioriser leurs croyances religieuses » [The principle of neutrality imposes itself on public agents in the exercise of their functions and prohibits them from expressing, materializing, externalizing their religious beliefs].

« C’est l’application pure et simple du droit » [It is the pure and simple application of the law], declared Dugrip, also expressing dissatisfaction with the teacher’s refusal to shake hands with her colleagues or other males in the name of her religious convictions. The rector claimed an already established jurisprudence, as the principle of the neutrality of public agents had been invoked in previous cases, and no authorities appeared to notice that this school official supported his decision [to deprive a young woman of her career] with invocations of a principle rather than with an enacted law.

Neutralité of public agents was again invoked in 2009 at the university level in the case of Sabrina Trojet, a doctoral student at the Université Paul-Sabatier in Toulouse. Trojet worked in a CNRS (Centre national de la recherche scientifique/ National Center of Scientific Research) laboratory and had begun to wear the veil in the first year of Masters Degree studies, having benefited from a research grant since 2006 for her thesis in microbiology. In July 2008, by that time a doctoral

46 Jamet.
student, she received a letter of dismissal from the university, reminiscent of the disciplinary commission of the Toulouse primary school, stating that: « Mme Trojet a enfreint délibérément et de façon constante le devoir de stricte neutralité qui s’impose à tout agent public dans l’exercice de ses fonctions quel que soit son service et qu’il soit ou non en contact avec les usagers de ces services ». [Mrs. Trojet violated deliberately and in a constant fashion the duty of strict neutrality imposed on every public agent in the exercise of his functions whatever the service may be and whether or not he is in contact with those who use his services].

In statements to the press, university attorney Jacques Lévy echoed those sentiments by referring to her status as a public agent of the state and its accompanying obligations: « en raison de son statut d’agent public de l’Etat, elle est tenue à une obligation de réserve et de neutralité » [By reason of her status as a public agent of the state, she holds an obligation of reserve and neutrality]. « Les agents publics sont tenus de se soumettre à certaines restrictions. Ils ne doivent pas afficher leurs opinions politiques et religieuses » [Public agents are also charged with submitting to certain restrictions. They must not display their political and religious opinions], he also claimed.

University officials had categorically imposed a definition of neutrality as the public absence of religious affiliation, regardless of the potential impact – real or imagined – on students. In insisting on this definition no matter the job and

47 Inizan.

48 lepost.fr.
regardless of the degree of contact or separation with the users of the public services provided, officials demanded on principle that she remove the veil, even though she had no contact with students and thus no opportunity to offend sensitivities to Islam. Their legal representative declared the necessity of the demanded restrictions to the French population and revealed the same association between Muslim attire and politics that had surfaced in other conflicts. He had stated that the veil worn by this doctoral student was not only a religious advertisement (« affiche » means “poster”) but a political one. The courts agreed, declaring that nothing invoked by the doctoral student was of a nature to create doubts as to the legitimacy of the decision. This judgment also expanded the state’s insistence on the separation of church and state in the public schools to the state employment sphere. The statement places teachers in the domain of other public functionaries so that the state can demand that they too confine their religious faith to their private lives, just as collège and lycée students and wearers of the burqa were required to leave behind their religious attire and symbols.

As in all other affairs having to do with Islamic manifestations in the public space, the law of 1905 was invoked in regard to public service, as were the Constitutions of 1946 and 1958, but neutrality among state workers appeared only in opinions of state assemblies or councils, not in specific laws. The statements of school and other public authorities in both Toulouse cases echoed the decision rendered on May 3, 2000, by the Conseil d’État regarding the neutrality of the state and its representatives:
Si les agents du service de l’enseignement public bénéficient comme tous les autres agents publics de la liberté de conscience qui interdit toute discrimination dans l’accès aux fonctions comme dans le déroulement de la carrière qui serait fondée sur la religion, le principe de la laïcité fait obstacle à ce qu’ils disposent, dans le cadre du service public, du droit de manifester leurs croyances religieuses.

[If agents in the service of public teaching benefit like all the others from the freedom of conscience that prohibits all discrimination in the access to functions as in the development of a career which would be founded on religion, the principle of laïcité creates an obstacle to their taking advantage of the right to manifest their religious beliefs in the context of public service.]

The Conseil had declared that manifesting religious beliefs while performing one’s position in the employ of the French state discriminated against those who may not believe in a like fashion. Since teachers in public (i.e. state-operated) schools benefit from the freedom of conscience that prohibits religious discrimination, the principle of laïcité becomes an obstacle to that right while they are carrying out the duties of a state employee. These arguments were used to justify politicians’ desire to ban the Islamic veil from being worn by yet another segment of the population, but they were based on recommendations (avis) of the Conseil d’État (Council of State), not on any law. All through the conflict over
students wearing the veil in public schools, the government chose to blatantly disregard the opinions of committees appointed to deal with the question of Islam. The Conseil had not advocated a ban on religious symbols in public schools, and the eventual ban on those symbols was only one of over twenty recommendations made by the Stasi Commission, most of which were ignored. In so doing, the very state that guarantees a fundamental right was said to operate on a principle that withdraws that right.

The arguments against agents of the state wearing religious symbols in the performance of their duties actually began before teachers were included in that group; the conflict began as the Foulard Affair was at its peak just before the 2004 law prohibiting religious symbols in public schools. In July 2003, Nadjet Ben Abdallah, a 33-year old transportation controller in Lyon who wore the veil was suspended by her employers, the ministers of Social Affairs and Transportation. She lodged an appeal and the administrative court declined her suit, but the magistrates of the administrative court of appeal of Lyon criticized the disciplinary authority for not having specified “the elements of fact” that constituted the infraction and judged that the suspension was not correctly motivated. The appeals court did subsequently annul the sanction, but estimated that the young functionary had failed to fulfill her obligation to the neutrality of a public agent and that her repeated refusal to remove her veil constituted a serious fault “contrary to professional honor.” Gilles Devers, Abdallah’s lawyer, announced his intention to take steps to organize his client’s return to her public function, but the functionary was the object of another sanction on July 8, 2004, for the same reason and this time was suspended for a year without
pay. That suspension was upheld by both the administrative court in 2004 and the administrative court of appeals on July 12, 2005.

In November 2009, the notion of privatizing religion for state functionaries reared its head among the Paris police force when Nora B., charged with regulating traffic in the Republic’s capital, was disciplined for wearing the Islamic veil while serving as a member of the police force. The agent was admonished several times by her superiors, but she refused each time to remove her simple veil (as opposed to the integral veil, which covers a woman from head to toe). The disciplinary council of the prefecture of police proposed a penalty of a two-year prohibition of function, eighteen months of which would be suspended. The only complaints about the woman reported by the media were the refusals to remove the veil, but if the prefect of police confirms the proposed punishment, the police officer will effectively be suspended for six months without pay not due to any fault in carrying out the day-to-day responsibilities of the position.

A young Muslim woman working full-time in public administration anonymously described a split between two lives as the experience of practicing Muslims working among non-Muslims in France. She chose to remove her veil upon arriving at her place of employment « pour être une bonne fonctionnaire acceptable dans l’administration publique »49 [to be a good, acceptable functionary in the public administration, as her workplace prohibited wearing the veil.] She reported that once her superiors knew she was a Muslim, they took files from her that related to State positions from an ethical point of view and from one accepting of others

49 imanemagazine.com.
because they assumed that she would be too lax towards her community, though they themselves handled files with much partiality and sentimentality.

Colleagues accepted not kissing her on the cheek as a greeting, but it was very badly perceived to not accept kissing a male colleague at work, though she did not see how such a greeting was what created a connection or an occasion to speak to each other. There are after all, she explained, European populations who are in close professional contact without the need to touch or embrace in order to have good professional relations. But adding the non-negotiable element of the holy month of Ramadan was a total incomprehension, a tear in relations between colleagues. Even after she had fasted during Ramadan, they continued to ask why she had decided to no longer nourish herself. Was it a political protest? A diet? Wouldn’t she like to have a sandwich? If she was fasting for religious reasons, she should not do so on the day of a planned lunch. It was only at home where this public employee felt like herself. Juggling a private life, a professional life, and religious convictions made schizophrenics of practicing Muslims between their two lives. But it seems to be the only option for Muslims who need the income from their state-funded employment to survive.

The website www.leconomiste.com reported as far back as 2003 that recruiters are less and less accepting of veiled women. Some women contacted by the site spoke of a “daily endurance” with their superiors or their professional entourage and sometimes felt at risk of losing their jobs, calling the situation “a true moral harassment.” According to Abdelouhab M’rini, professor-researcher of private law at the Faculté Agdal de Rabat, wearing the veil is not a reason for firing an
employee. The law, he says, does not explicitly speak of this question, but there is no clause which prohibits wearing the hijab at work. There exists, however, a great divide between the principle of individual freedom and the requirements of the job market.

For Jamal Belahrach, director general of Manpower, a company that places workers in temporary positions, wearing the hijab in a business is an irritant, particularly in the sector of services where the client/employee relationship is based on direct contact. In such a situation, Belahrach believes, the hijab creates a barrier between the client and the employee. Wassila Kara Ibrahimi, associate director of Bil Consulting, corroborates those beliefs. Though Ibrahimi does not say that the veil poses an absolute problem, placing a personal choice too much in the foreground inhibits the efficacy of the work. She cites instances in which veiled women refuse to meet with or travel with men, thereby prohibiting the workings of enterprise. She reports that 80% of the company’s clients do not accept veiled women because of worries about the rise of Islamism, and in the tourism sector the refusal is categorical, except for a few rare positions. What frightens these business clients, then, is not the headscarf itself, but all that gathers behind it and all the messages that it sends.

Fears of Islamism carried by the veil spread to the private sector as well and were upheld by the French courts in the case of a worker at a private daycare facility in Chanteloup-les-Vignes, a commune in the Yvelines department in north-central France. In December 2008, Fatima Afif, an employee with the status of assistant director returning from parental leave following a maternity leave dating from 2003
was fired for refusing to remove the veil upon her return to her position of providing care for children at the Baby Loup daycare center. The parquet general of the court of appeals of Versailles upheld the facility’s decision, taking into account the young age of the children, who « n’ont pas à être confrontés à des manifestations ostentatoires d’appartenance religieuse » [should not have to be confronted with ostentatious manifestations of religious affiliation]. In November, not long before the decision of the appeals court, Socialist party deputy Manuel Vall went so far as to envision a legal proposition that would extend the 2004 law to any location where children are present in order to avoid situations like the one that occurred at Baby Loup; « Il semblerait qu’il y ait une vide juridique et je vais réfléchir à l’idée d’une proposition de loi pour qu’on interdise, comme c’est le cas à l’école, le port de signes religieux distinctifs là où il y a des enfants » [It seems that there is a legal gap, and I am going to reflect on the idea of a proposition of law so that one can prohibit, as is the case in school, the wearing of distinctive religious signs where there are children],\(^5\) he declared on France Bleu. Following that line of thinking leads to the question of why university personnel were not permitted to wear the veil. If age was a factor in the decision because the court felt that the veil constituted undue influence on minds that were more impressionable at a young age, and if one follows the court’s line of reasoning, then university students with many more years of education and experience at abstract thinking should certainly not be so easily influenced, leading to the impression that the court seized upon the age of the daycare’s children as a fortunate and plausible justification for a decision not

\(^{5}\) 10 November 2010. TF1 News.
explicitly supported by the law. Just as in the cases of the employees on the state payroll, this private sector employer – and the state courts – viewed the veil as a confrontation with those in contact with the wearer.

Mme Afif had cited the principle of religious freedom also guaranteed in the same law continually cited by authorities to support suppressing religious affiliation, and *La Halde* president Jeannette Bougrab argued that « il n’y avait pas de raison que la laïcité soit moins bien protégée que la liberté religieuse, ce sont deux principes de valeur constitutionnelle » [there was no reason for *laïcité* to be less well-protected than religious freedom, as these are two principles of constitutional value]⁵¹ and added that the daycare came under private law and could therefore not be considered an association created by a collectivity to take on missions of public service. *Le Monde* reported that since Baby Loup’s creation resulted from a private initiative, no material or human means were put at its disposition by the town council and therefore, even if the grants of local collectives and the CAF represented more than half of its resources, these sums corresponded to the habitual mechanisms of the financing of daycare centers. Baby Loup’s assistant director Patricia Gomis interpreted those financing methods to the facility’s – and the state’s – advantage, arguing that such grants obligated daycare employees to the neutrality required of other public servants. She stated to the press that since Baby Loup was financed primarily by public funds, the facility’s management wanted to make recognized its mission of public service and wanted to function as a municipal

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daycare, where the employees would be subject to the principle of neutrality. Her statements did not correspond to the legal precedents concerning private daycare centers; her arguments ignored the longstanding practice of providing public funds to privately operated facilities and sought instead to justify Baby Loup’s desire to follow the rest of society by distancing itself from any contact with Islamic practices. She attempted to use a financial practice that had not attracted complaints in the past to further the management’s agenda no matter what the law allowed. What is even more disturbing is that the French courts themselves reinterpreted the law to further their own anti-Islamic agenda.

Citing article 1 of the Constitution of the Fifth Republic – “France is an indivisible, secular, democratic, and social republic” – the Prud’hommes Council of Mantes-La-Jolie judged in December 2010 that wearing the Islamic veil in a business did indeed justify being fired for a « faute grave » [serious fault]. The council considered an interior rule of the Baby Loup daycare prohibiting the veil to conform to dispositions of article L. 1311 of the Work Code, which stipulates that “in the exercise of its work, the personnel must respect and keep the neutrality of their political and confessional opinion in the presence of the public they serve…” The council explained further: « Le principe de la liberté de conscience et de religion de chacun des membres du personnel ne peut faire obstacle des principes de laïcité et de neutralité qui s’appliquent dans l’exercice de l’ensemble des activités développées par l’entreprise… » [The principle of freedom of conscience and religion of each of the personnel members cannot erect an obstacle to the principles of laïcité and neutrality which apply in the exercise of the ensemble of activities]
developed by business...]. Their interpretation of the code assumes that neutrality necessitates the absence of an opinion and that any form of personal affiliation prevents laïcité and neutrality as it is seen by the state.

This legal body saw personal expression having to do with politics or religion as obstacles to the neutrality of the state and its agents, and for the French courts the Islamic veil was a particularly intolerable indication of a violent, fundamentalist political religion that if left unchecked would become an obstacle to republican principles. All of Islam was radical, and any person of faith – especially a woman wearing the veil - was incapable of carrying out the duties of her job without favoring those of the same faith and discriminating against those of a different one. Perhaps looking at the world through such sweeping assumptions brought on by fear of a faith they did not attempt to understand explains why the Council of Mantes-La-Jolie ignored the fact that the law they cited as support for their arguments required neutrality but did not define it as the absence of all personal opinions on the part of public or private employees. Article L.1121-1 of the same Work Code states that « Nul ne peut apporter aux droits des personnes et aux libertés individuelles et collectives des restrictions qui ne seraient pas justifiées par la nature de la tâche à accomplir ni proportionnées au but recherché » [Nothing can restrict rights and individual and collective freedoms that is not justified by the nature of the task to be accomplished or proportioned to the researched goal]. While the vocabulary of the

\[52\] Rocheblave.
law does not specify which specific tasks may justify a denial of the choice of attire, neither does it prohibit particular articles of clothing in any specific situation.
THE HALAL CONTROVERSY IN PUBLIC SCHOOLS

The crusade to ban Islamic attire from any locations deemed to occupy the public sphere shared the conflict of the first decade of the 21st century with an increasing aversion to another Islamic practice – that of halal (permitted for Muslims) meat in public schools. In these cases, however, the arguments abandoned appeals to women’s rights and equality and rested on French identity. Parents in schools with a noticeable Muslim population began to request that meat in keeping with their Islamic requirements be offered as an option for Muslim students, and the opposition that arose to a dietary discipline that was in practice simply a method of animal slaughter spread beyond parents and school administrations to local and national government officials. Many saw these requests to accommodate Islamic dietary requirements as demands for religious preference at best and as attempts to infiltrate France’s neutral republic with a radical religion at worst. For those opposed to halal meat in school cafeterias, honoring this alternate dietary choice was an attack not only on the principle but on the practice of laïcité, and thus an attack on French values and on the Republic itself.53

Kosher meals require a much more strict set of rules, such as being prepared and touched only by a Jew and keeping meat and dairy items completely separated. Requests for kosher meals were not an issue that sparked debate in French public schools because of the extensive system of Jewish private schools in France.

53 Kosher meals require a much more strict set of rules, such as being prepared and touched only by a Jew and keeping meat and dairy items completely separated.
An examination of just what must happen for meat or any food to be designated as halal (lawful) versus haram (prohibited) leads an observer to wonder why the opposition to halal menu choices in public schools became so vitriolic. The Koran prohibits Muslims from eating pork (also donkey, mule, carnivorous animals, and birds of prey), but other meat is permitted, provided that the animal is killed according to Muslim sacrificial rites, which simply entail a particular method of sacrifice carried out by a Muslim who is qualified by recognized religious organizations. The animal must be turned towards Mecca and remains conscious at the moment of slaughter, when the words « Au nom de Dieu, Dieu est grand » [In God’s name, God is great] must be pronounced, and the animal’s blood is then drained. Some in France have denounced what they see as cruelty to animals because the animal in halal rituals is not stunned before its death, but halal rite specifically prohibits cruelty before the sacrifice – which is swift and professional - and does not even allow the knife to be sharpened in the animal’s presence. What seems to be at the root of the strong feelings against the halal diet is the fact that it is a Koranic mandate. The sixth Sura of the Koran states that “I find not in what hath been revealed to me aught forbidden to the eater to eat, except it be that which dieth of itself, or blood poured forth, or swine’s flesh; for this is unclean and profane, being slain in the name of other than God,” and the fifth Sura expands on those commandments, ordering that “That which dieth of itself, and blood, and swine's flesh, and all that hath been sacrificed under the invocation of any other

54 Sberro.
name than that of God, and the strangled, and the killed by a blow, or by a fall, or by goring, and that which hath been eaten by beasts of prey, unless you make it clean by giving the death stroke yourselves, and that which hath been sacrificed on the block of stone, is forbidden you.**55** Interestingly, most of these prohibitions are also found in the Bible, a fact that did not enter into the debate (nor did the practice in some schools of serving fish on Fridays). Arguments against what was sometimes perceived as cruelty to animals took a back seat to the distinctly religious origins of halal alimentation, which would be the point of contention in the schools that refused allowances for Muslim students who felt compelled by their faith to decline the regular meals offered in school canteens. Also remaining in the background of the public conflict were the schools keeping alive the tradition of special menu offerings rooted in Catholicism.

French schools generally relied primarily upon the principle of *laïcité* and on claims of upholding freedom and equality, as did the city council of Tremblay-en-France in 2005. Confronted with a pressing demand for halal meals in school canteens via a petition from parents, deputy mayor Philippe Fleutot (of the Socialist party) circulated a letter which he indicated could serve as a model for others confronted with the same attempts to test *laïcité’s* firmness in territorial collectivities. The text of the letter is as follows:

 Une pétition circule actuellement pour demander que la viande halal soit servie dans les écoles maternelles et primaires de la ville.

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**55** The Koran, translated by J. M. Rodwell.
Rappelons qu’à Tremblay, la restauration scolaire constitue un service public et laïque.

C’est également un service facultatif.

C’est pourquoi le refus de la municipalité de prendre en compte les exigences alimentaires, d’ordre confessionnel, que certains parents estiment devoir imposer à leurs enfants âgés de 3 à 12 ans ne peut pas être considéré comme une atteinte à la liberté de culte.

Un usage ancien fait, cependant, que les cantines scolaires proposent un choix alternatif le vendredi (culte chrétien) ou lorsqu’il y a du porc (cultes musulman et israélite) sans que ce choix soit réservé aux seuls élèves se réclamant d’une religion.

En revanche, la préparation des repas selon des rites particuliers (halal ou casher, par exemple) n’est pas envisageable.

En effet, une telle prestation spécifique ne s’inscrit pas dans le cadre de la finalité du service public de restauration scolaire et porterait atteinte au principe d’égalité des usagers qui n’autorise les différences de situation objectives (maladies, allergies) et non pas d’opinion (habitudes ou rituels alimentaires).

Le rôle de l’école publique, laïque et républicaine n’est pas de conforter l’ordre social établi.

Son devoir, c’est de transmettre à chaque enfant les désirs, les savoirs et les méthodes qui lui permettront de choisir sa destinée et de la construire, dans un climat de liberté, d’égalité et de fraternité.
Philippe Fleutot
maire-adjoint socialiste

[A petition is circulating to ask that halal meat be served in preschools and primary schools of the city. Let us remember that in Tremblay, school catering constitutes a public and secular service. It is equally an optional service. This is why the refusal of the municipality to take into account the dietary demands of confessional origin, that certain parents consider necessary to impose on their children aged 3 to 12 years cannot be considered to be an attack on the freedom of religion. An old usage makes it possible for school cafeterias to propose an alternative choice on Fridays (Christian religion) or when there is pork (Muslim and Israeliite religion) without the choice being reserved only for the students following a religion. On the other hand, the preparation of meals according to particular customs (halal or kosher, for example) is not conceivable. Indeed, such a specific provision is not registered in the setting of the purpose of the public service of school catering and would bring an attack on the principle of equality of the users which authorizes differences in treatment only when there are differences in objective situations (illnesses, allergies) and not differences of opinion (dietary habits or rituals). The role of the

\[56\] www.laic.fr.
public school, secular and republican, is not to reinforce the established social order. Its duty is to transmit to each child the desires, knowledge and methods which will permit him to choose his destiny and to construct it, in a climate of liberty, equality and brotherhood.

The letter puts school lunches in the same category as other public services, freeing school personnel from the obligation to accommodate the desires of individual groups, and raises the question of individual choice and its place in public schools. Fleutot is saying that since no student is obligated to partake of this public service, no student is entitled to services arriving from a personal choice such as religious affiliation. He then attempts to reinforce his argument with an appeal for children’s rights against another Muslim practice. Calling for an end to the oppression of women by the veil or burqa does not apply in this domain, but the deputy mayor does imply that a refusal to change the public school menu, rather than attacking religious freedom, actually constitutes the protection of those who have no other recourse – the students of Muslim origin – from having a halal diet imposed on them by their religiously observant parents. Child protection, however, is a weak argument, considering the common occurrence of parents making decisions regarding the upbringing of their children. Feulot has no complaints about any other choices parents make for children, nor does he object to republican principles and values being “imposed” upon the children of France. It would seem
that pointing a child towards religious belief and practice is an imposition, while inculcating secularism is a duty of the state and a benefit to the child.

Feulot then invokes tradition as a justification for keeping the status quo; specific provisions such as halal food, he states, have not been previously granted in public school settings, and introducing such changes now would be an assault on the equality of the students who partake of cafeteria offerings. Accommodations must therefore be made only in cases of actual necessity, such as illness or allergies, not in response to dietary or ritualistic choices. In what goes against the deputy mayor’s insistence on a laïcité prohibitive of public policies influenced by religion, alternative choices in school cafeterias on Fridays clearly originate in Catholic - not secular – tradition, but Tremblay city officials consider those non-meat dishes on Fridays to be an acceptable policy because they do not involve the alternative methods of preparation required by halal or kosher meals. Arguments that first invoked laïcité against halal meals but not against those originating in Catholic tradition, implying a religious basis for the denied accommodations, finished by invoking the level of effort expended to produce the special meals. Halal meat, however, requires only that it be slaughtered in a particular manner by a Muslim, not prepared by a Muslim. No halal certification prohibits school personnel from preparing that meat for students just as they would prepare non-halal meals, but rather than carrying their original arguments all the way through and applying them to the special provisions already in place, city officials found a convenient excuse to favor Catholic practices over Muslim ones. Feulot’s letter claims that the duty of republican and secular schools is “to transmit to each child the desires, knowledge
and methods which will permit him to choose his destiny and to construct... equality
and brotherhood,” but this school – and the other public servants who supported
the school’s decision – have provided only a method of choosing the destiny devoid
of religious affiliation, not a destiny that depends on a student’s choice as the letter
claims. That kind of favor is a true violation of the constitutional principle of
neutrality towards religion that the school claims to want to uphold.

The town council of Villefranche went beyond a refusal to accommodate
halal diets in public schools in May 2005, when the city council threatened to banish
students who refused to eat meat from the school canteen. In November and
December, the deputy mayor of Villefranche charged with school affairs, Andrée
Chambefort, sent letters to the parents of approximately twenty students at a
preschool and a primary school who had refused to eat meat in the canteen
because it was not prepared according to Muslim rites. Pointing out that canteen
meals were not an obligation, as did the Tremblay letter, Chambefort’s text
emphasized the respect of the school’s rules:

Je vous rappelle que le repas est un acte de la vie en société et que
l’enfant doit en respecter les règles. Tous les enfants doivent manger
de tous les plats servis même en petite quantité...La restauration
scolaire étant un service proposé aux parents mais en aucun cas une
obligation, je vous demande de bien vouloir vous conformer aux
règles faute de quoi je me verrai dans l’obligation de ne plus accepter vos enfants à la restauration scolaire.\textsuperscript{57}

[I remind you that the meal is an act of life in society and that the child must respect its rules. All children must eat all dishes even in small quantities...School catering being a service proposed to parents but in no case an obligation, I ask you to conform to the rules without which I will be obligated to no longer accept your children in the school canteen.]

Parents of the students in question were up in arms about a decision that « vise spécifiquement la communauté musulmane » [is aimed specifically at the Muslim community], and they had been asking for several months that their children be permitted to refrain from eating meat in the school canteen, without asking for alternative menus. « Nous n’avons jamais mentionné de motifs religieux. Nous souhaitons simplement que l’on ne force pas les enfants à en manger » [We have never mentioned religious motives. We simply do not want the children to be forced to eat it], stated parent Farida Saadi. This city council’s decision also violated the principle of religious neutrality inherent in laïcité that had long been heralded as the justification for refusing accommodation of Muslim practices. It not only refused to allow a Muslim practice of consuming only halal meat, but forced Muslim students to violate their religious beliefs in the very institution said to hold the

\textsuperscript{57} ecolesdifferentes.free.fr.
The controversy over halal meat that had come to the attention of parents and politicians for several years erupted in another nationally known case in June 2010, when the mayor of the southern city of Orange thrust the city onto the national news and political scene with his public and adamant refusal to allow halal meat to be served in public schools. After numerous weekly marches to the Orange city hall to petition for halal menus, mayor Jacques Bompard not only refused halal meat in school canteens, but also inside schools on the occasion of end-of-the-year festivities, despite announcements by parent associations in two schools of their willingness to replace sausage with halal meat. The municipality had clearly announced its opposition to their announcement, which made the associations retreat from their willingness to accommodate Muslim students. Jacques Bompard then further clarified his own position in a communiqué prominently displayed on the city council’s website:

La France est un État laïc et une nation riche de 2500 ans d’histoire et de traditions. S’installer en France impose aux étrangers de respecter la laïcité à l’intérieur des établissements publics comme le sont des écoles, mais également d’accepter les coutumes françaises et non de vouloir les remplacer par leurs propres coutumes. Ceux qui ne peuvent ou ne souhaitent se plier à la loi et aux traditions
françaises doivent en tirer la conclusion qui s'impose : aller vivre pleinement leurs propres traditions dans leur pays d’origine.\textsuperscript{58}

[France is a secular state and a nation rich in 2500 years of history and traditions. Living in France requires foreigners to respect laïcité inside the public establishments which schools are, but equally to accept French customs and not to want to replace them by their own customs. Those who are unable or do not wish to submit to the law and to French traditions must draw the conclusion which commands: go and fully live their own traditions in their country of origin.]

Jacques Bompard had called on the history of France as support for not allowing meat slaughtered in a certain manner in its public schools; it had not been done before. This is not law; it is an obstinate unwillingness to change and a weak attempt to insulate society from the view of people who were not like them and who resisted being changed. If France had never made changes in the way its laws and its society functions, absolute monarchs would still rule the country, claiming divine right to the throne and deriving much of their power from the Catholic church. Catholic priests would still wield authority in what is now considered the seat of republican influence over future citizens: public schools. He insists that Muslims adopt French customs and assumes that a desire to retain Muslim practices outside of Muslim countries signifies a desire to eliminate the customs of

\textsuperscript{58} \url{www.drzz.fr}.
their host country and put their own practices in place. His solution? Go back where you came from if you want to keep your customs; don’t stay here as you are, and don’t force us to be like you. This is an ironic and even hypocritical stance, considering the fact that only fifty years before, France had imposed French language and culture on Muslim citizens in its colonies.

But Bompard was not the only politician to hold this exclusionary view; Castanet-Tolosan mayor Arnaud Lafon’s attorney, Camilla Assadi, argued before the municipal council: « Vos ancêtres se sont battus pour abolir tous les privilèges, y compris le diktat de l’Eglise…Allez voir en Iran comment ça se passe » 59. [Your ancestors fought to abolish all privileges, including the dictate of the Church…Go to Iran and see how this is going.] After only an hour and a half of debate, the municipal council of Castanet approved the modification of the interior regulation of the school canteen, depriving eleven % of the student body of meals without pork and of vegetarian meals. Parents were informed on the day following the return to school of the council’s decision: beginning September 12, 2010, there would be no more non-pork or vegetarian meals in the canteens except for those students with a projet d’accueil individualisé (PAI) 60, known in the United States as


60 The PAI is a protocol established between parents, the educational establishment (head of the establishment, doctor, social worker, educational team – teacher,
an individual educational plan, because they have been determined to have special needs. As was the case with the veil and the burqa, requests for meals that did not violate their religious beliefs were seen as an attempt to initiate a radical Islamic government in France when Arnaud Lafon called for an end to altered school menus because he did not want to put his finger on the gears of conformation to Sharia law. "Aujourd’hui on se pose la question pour savoir si la viande est halal ou pas, mais demain on va s’interroger sur la présence de porc dans une gélatine ou savoir si les repas ont été préparés par un non musulman". [Today one asks if the meat is halal or not, but tomorrow one will ask about the presence of pork in a gelatin or if the meals were prepared by a non-Muslim.] Again, this is not law. This is bigoted speculation, operating on the same principle as an old American adage that says, “If you give them an inch, they’ll take a mile.” While such thinking may be cause for further deliberation and consideration, it should not drive the course of the law or determine legal decisions as it did in Castanet. Lafon went so far as to declare that his actions were "sans aucune discrimination" [with no discrimination] because he had intervened "pas avec ses croyances mais en tant que citoyen de la République" [not with beliefs but as a citizen of the Republic].) He may have made the non-halal ruling on the basis of his understanding and interpretation of nurse, etc) and exterior partners to permit the reception of a student suffering from a handicap or an illness.

republican values rather than on any personal religious affiliation, but republicanism does not render “non-discriminatory” a decision made on the basis of the Muslim character of the requests for dietary accommodation. Yet the municipal council followed the path of many other lawmakers and ruled in the favor of a mayor whose decision reflected only his fear of Islam.

As the halal conflict continued, parents voiced their opposition to halal meals, echoing sentiments heard throughout the other areas of conflict with Muslim practices. The parents’ association at the Eugène-Cas school in Chartreux announced that a May, 2011, barbecue would serve only halal meat in the interests of organization and of equity, so as to avoid excluding anyone from the festivities. The meal was prepared by parents and not by school personnel, yet the event still stirred up conflict among parents, some of whom did not participate because of the halal meat that would be served. Maureen Brochet, mother of a student at Jean Macé school in Châlons-en-Champagne, published her opposition to a halal barbecue to celebrate the end of the school year on ripostelaique.com. A barbecue of halal meat for a public school celebration was incomprehensible to this parent, who believed that a religious practice had no place in a public school. The article stated that the inalienable right to freedom of religion was a private right and that to allow halal food in public schools compromised French foundational values.

High-ranking politicians sharing the opinions of parents opposed to halal menus in school canteens also weighed in on the conflict as it progressed. French presidential candidate François Hollande’s view on the presence of halal food in the public space appeared in the weekly paper Le Point, where he indicated that:
Qu’un restaurant propose de la cuisine particulière, c’est la liberté commerciale. Ce qui pose un problème, c’est lorsqu’il n’y a pas la possibilité d’un choix dans un espace donné. Dans les cantines, il n’a jamais été question d’introduire de la nourriture halal, dans quelque école que ce soit. En revanche, dans de nombreux abattoirs français existent des ateliers qui correspondent au rite halal, sans que les principes de la laïcité soient faussés. Les règles doivent être appliquées strictement et ne doivent pas supporter de dérogation. Il faut avoir le souci de mettre chacun devant la même situation, où qu’il soit sur le territoire.  

[When a restaurant offers a particular cuisine, it is freedom of commerce. What poses a problem is when there is no possibility of choice in a given space. In canteens, there was never a question of introducing halal food in schools. On the other hand, workshops corresponding to halal rites exist in numerous French butcher shops, without the principles of laïcité being distorted. The rules must be strictly applied and must not support special dispensation. We must take care to put everyone in the same situation, or on equal territory.]

Hollande acknowledges the right of private facilities such as restaurants or butcher shops to serve the menus and practice the rites they choose as freedom of commerce, what American democracy might call a free market. Freedom of commerce does not violate the principle of laïcité in his opinion because consumers have other choices. The problem is that Hollande objects to specialized menus in public schools because he believes that the particular situation removes choice from the equation. Students do not have the ability to choose another canteen as they would choose a restaurant according to their personal tastes, and he wants to put everyone in the same situation, on equal territory. While much of what he says makes sense and appeals to a sense of equality and fairness, it has certainly not been applied in the schools where halal menus have been debated as Hollande implies.

While it is admirable to put all students on equal territory to avoid discriminating against any one group, absolute equality is an unattainable ideal, and the refusal to accommodate inevitable differences has resulted in the very discrimination Hollande claims to want to avoid. Though it sounds simplistic, people are not all the same. They do not all have identical backgrounds and beliefs and will therefore not be inclined to live in the same manner. Conflict between different groups of people is inevitable and cannot be eliminated with exclusionary laws. In order to manifest Hollande’s ideal of everyone in the same situation, all economic and social differences would have to be eliminated, along with religious belief and any customs that would divide one group from another. In the case of France’s particular notion of laïcité in public schools, visible signs of religious belief must be
erased in order for all students to be in an identical situation. Not only is this an unrealistic expectation; it also does not take into account the fact that Muslims, particularly devout Muslims, have no desire to be in the same situation as their non-religious French counterparts. They want to keep their religious faith and practices, and they do not wish to maintain one identity in state-run institutions and another in private, which is one of the main points of conflict with laïcité’s adherents in 21st century France.

The other most notable area of difficulty between secularists and Muslims in France is the radicalism and desire to destroy all that is not Islamic that many French have read into requests for halal accommodations. No Muslim has stated a desire to force halal meat on any student or to alter the dietary habits of the Republic; they have simply asked for the opportunity for their school-age children to consume it themselves. Yet even those who compose and enact French law prohibit Muslim practices in public institutions for fear that Islam will take over France. A paragraph on actionsita.wordpress.com puts many of the fears of France about Islam into words:

L’islam, je le rappelle, c’est cette religion qui – entre autres horreurs – considère la femme comme ne valant que la moitié de l’homme, et permet de la frapper lorsque l’on craint sa désobéissance ; qui appelle au meurtre des homosexuels ; qui offre aux chrétiens et aux juifs trois alternatives : la conversion, la mort, ou la possibilité de garder leur foi dans le cadre d’un citoyenneté de seconde zone, et ce contre le paiement d’une taxe ; qui offre aux athées et polythéistes
le choix entre la conversion et la mort ; qui appelle au meurtre des apostats ; qui promeut entre autres châtiments l’amputation,
l’énucléation et la lapidation ; qui exhorte les musulmans à l’extermination des Juifs au jour de jugement dernier. C’est cela la loi islamique, la loi qui régit le halal.

[Islam, I remind you, is this religion which – among other horrors – considers women to be worth only half of a man, and allows hitting her if one fears her disobedience; which calls for the murder of homosexuals; which offers three alternatives to Christians and Jews: conversion, death, or the possibility to keep their faith in the context of a second class citizenship, and this against the payment of a tax; which offers atheist and polytheists the choice between conversion and death; which calls for the murder of apostates; which promotes among other punishments amputation, enucleation and stoning; which exhorts Muslims to the extermination of the Jews on the day of the final judgment. This is Islamic law, the law that regulates halal.]

This is the only vision many have of Islam – the radical Muslim who utilizes violence against non-Muslims and against their own when they disobey. Those who are of the same mind as the author of the above paragraph have placed a culinary practice

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63 actionsita.wordpress.com.
on the same level as hardline radical beliefs. The author of the above statement claims that Muslims have allowed Christians and Jews to keep their faith only in the context of a second class citizenship, all the while making the same offer to France’s Muslim citizens. Such views refuse to acknowledge the evidence facing them, which is that the vast majority of Muslims do not conform to the radical image portrayed by politicians and the media.
LAÏCITÉ AND DAILY PRAYER: AN ISLAMIC OCCUPATION? THE FAR RIGHT SPEAKS OUT

Also dating from the middle of the decade is the issue of Muslims performing their daily prayers in the streets of Paris and other major cities with large Muslim populations due to the lack of Mosques to accommodate them, a practice that turned into a public and political controversy in June 2010, when small extreme-right groups called for a wine and sausage party that was later annulled. Mosques on Myrha and Polonceau streets in Paris’s 18th arrondissement have overflowed with an influx of hundreds of Muslims arriving for Friday prayers, forcing some to pray in the street, suiting neither Muslims nor the inhabitants of the Goutte d’Or neighborhood, nor France’s political leadership. Marine Le Pen, head of the right-wing National Front political party, sees the street prayers as « un acte politique de fondamentalistes » [a political act of fundamentalists].

In December 2010, Le Pen proclaimed that « pour ceux qui aiment parler de la Seconde Guerre mondiale, s’il s’agit de parler d’occupation, on pourrait en parler pour le coup, parce que ça, c’est une occupation du territoire » [for those who like to speak of the second World War, if it has to do with talking about occupation, one

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64 16 September 2011. TF1 News.


could talk about it this time, because that is an occupation of territory]. « C’est une occupation de pans du territoire, des quartiers dans lesquels la loi religieuse s’applique, c’est une occupation. Certes, y a pas de blindés, y a pas de soldats, mais c’est une occupation tout de même et elle pèse sur les habitants » 66 [It is an occupation of sections of territory, neighborhoods in which religious law applies itself. Certainly, there are no armored vehicles, no soldiers, but it is an occupation just the same and it weighs on the inhabitants.]

The German occupation of France in World War II sounds more similar to radicalism than the practice she criticizes, however. The German army occupied the north and west of France from May 1940, until December 1944, and France’s Vichy government was subordinate to the Germans. During that period, German forces requisitioned approximately 20% of French food production, requiring ration diets of 1300 or fewer calories per day for French citizens, and hundreds of thousands of French workers were transferred to Germany for the German war effort. Inhabitants were prohibited from going out at night. Approximately 49 concentration camps were in use in France, and nearly a quarter of France’s Jewish population perished during the war, 13,152 on July 16 and 17, 1942, when French police aided Nazi authorities in the Vel d’Hiv roundup.


During the Friday street prayers, no food or other supplies were taken from neighborhood inhabitants, no citizens were forced to aid those who prayed in accomplishing their desired task, and no non-Muslims were arrested, deported, or killed for their faith or resistance. For devout Muslims, Islam is not simply a religion, but a way of life. They simply wanted to continue with what they saw as a requirement to be true to their faith, and praying in city streets was their only option when mosques were unavailable or insufficient, and they vacated those streets upon completion of their prayers each time. Yet Marine Le Pen likened these short weekly periods of prayer, in which no one was pressured to participate, to a period in history during which French citizens eked out an existence on limited supplies and nearly 77,500 Jews – many of them French citizens themselves – were torn from their homes and died an agonizing death simply because they were Jewish. Both the majority and the opposition parties of the French government unanimously denounced the comments, and the *Ligue des droits de l’homme* [League of the rights of man] and the *Mouvement contre le racisme et pour l’amitié entre les peuples* [Movement against racism and for friendship between peoples] announced their intention to bring a complaint for the incitation of racial hatred. No arrest or conviction for such a crime was ever reported in Le Pen’s case.

The fear of fundamentalist Islam lies at the heart of Le Pen’s politics; if it was simmering beneath the surface of her attempt to equate Muslims praying in the street with a period of racial and religious genocide for which many French still bear shame, that fear burst into the open with her subsequent remarks before 300 adherents in Lyon: « Il y a quinze ans on a eu le voile, il y avait de plus en plus de
voiles. Puis il y a eu la burqa, il y a eu de plus en plus de burqa. Et puis il y a eu des
prières sur la voie publique...maintenant il y a dix ou quinze endroits où, de manière
régulière, un certain nombre de personnes viennent pour accaparer les
territoires ». [Fifteen years ago we had the veil, there were more and more veils.
Then there was the burqa, there were more and more burqas. And then there were
the prayers on public streets...now there are ten or fifteen places where, regularly, a
certain number of people come to monopolize the territories.]

It is difficult to see the connection between using an area and monopolizing
it. A monopoly is defined by Merriam Webster as “exclusive ownership through legal
privilege, command of supply, or concerted action,” “exclusive possession or
control,” and “a commodity controlled by one party.” The Muslims praying in the
street did exhibit a concerted effort to carry out their prayers, but they certainly did
not own the streets where they knelt, nor did they exclusively control the area.
Merriam Webster defines to control as “to exercise restraining or directing influence
over” or “to have power over.” Many have argued that so many kneeling in the
streets restricted traffic on Friday afternoons, but an interruption in the traffic flow
hardly constitutes a controlling influence over the neighborhood. If those gathering
for Friday prayers in major cities truly had power over their neighbors and their

67 « Marine Le Pen veut marquer des points au FN sur l’islam » [Marine Le Pen Wants
to Make a Point to the National Front About Islam.] 12 December 2010.
surroundings, they would be kneeling in mosques constructed to accommodate them rather than resorting to prayer mats in the street as their place of worship. It is disingenuous to equate a temporary inconvenience with power and control reaching the level of monopoly, and it is manipulative, even dishonest, to resort to fear-mongering by evoking the horror and shame of the Occupation and the Holocaust.

Marine Le Pen defended her statements in the press – « Je persiste et je signe » [I stand by what I said], she declared to journalists – by denying any error and claiming to have simply stated the reality of the physical and legal situation: « Mes propos ne constituent en aucune manière un dérapage, mais bien une constatation d’une réalité physique et juridique »

she explained. [My comments do not constitute in any manner a blunder, but an observation of a physical and juridical reality]. She provided a list of streets in Paris and in other cities falling victim to, in her opinion, « un phénomène d’occupation de rues loin d’être marginal...Ces occupations physiques du domaine public, qui interdisent les rues toutes les semaines, sont souvent accompagnées de haut-parleurs qui diffusent le prêche en arabe à de très forts volumes dans toute la rue, audible sur plusieurs pâtés de maisons » [a phenomenon of the occupation of the streets that is far from marginal...These physical occupations of the public domain, which block the streets every week, are often accompanied by loud-speakers diffusing preaching in Arabic at very high

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volumes over the whole street, audible over several blocks]. Le Pen cannot seem to stay on the path of any sort of legal reasoning; her comment about stating the “juridical reality” of the situation with Muslim street prayers was not followed by what that juridical reality supposedly was. Rather, her arguments jumped immediately to the inconvenience caused by temporarily blocked streets and then traveled back to the same underlying cause of so many other objections to Muslim practices and customs, which is not the act itself but the Muslim character of the act.

It is very telling that her complaint did not simply call attention to the volume of the preaching through the loudspeakers, or even to the fact that speaking of a religious nature was being diffused in a public place and thereby violating the principle of laïcité as it was understood by many politicians, but instead pinpointed the Arabic language of the sermons.

Le Pen emphasized that « le principe de liberté religieuse n’autorise pas tout et n’importe quoi » [the principle of religious freedom does not authorize anything and everything], and declared that « En refusant de condamner l’inadmissible comportement de ceux qui violent la loi, l’UMPS et ses acolytes effectuent un amalgame entre l’islam et l’islamisme et participent à la crispation légitime des Français » [In refusing to condemn the inadmissible conduct of those who violate the law, the UMP and its acolytes are bringing about an amalgamation between Islam and Islamism and are participating in the legitimate tension of the French]. No, the principle of religious freedom does not authorize every act no matter how

70 13 December 2010. TF1 News.
radical solely based on its religious nature, but that principle also does not prohibit everything religious no matter what. At the time that Le Pen made those statements, there was no law against praying in the streets, yet she persisted in claiming that those praying publicly were breaking the law. Refusing to condemn Muslims praying in the street does not combine Islam and Islamism; ignorance of Islam and what its practices mean did that. Bigotry and fear were what combined the religion of Islam and militant Islamic fundamentalism, and the unwillingness to understand another culture or accept any visible differences created the tension among French citizens, though at no time did Le Pen or high-ranking government officials acknowledge the tension felt by the many Muslims who are French citizens.

Le Pen’s comparison of street prayers and the Occupation was, however, not the first time Islamic customs had been likened to an extreme political ideology. In 1989 the news magazine *Le Nouvel Observateur* published a manifesto by five intellectuals – Elisabeth Badinter, Régis Debray, Alain Finkielkraut, Elisabeth de Fontenay, and Catherine Kintzler. The title « Profs, ne capitulons pas » [Teachers, let us not give in] appeared with a photograph of a girl wearing a headscarf. The manifesto then suggested that tolerating the headscarf might prove what the five authors called « le Munich de l’école républicaine » [the Munich of the republican school], which in French political discourse signified the appeasement of fascism. One week later, “five personalities” – Joelle Brunerie-Kaufmann, Harlem Désir, René Dumont, Gilles Perrault, and Alain Touraine – published a response to the manifesto warning against a « Vichy de l’intégration des immigrés » [Vichy of the integration of immigrants]. The Stasi Commission appointed to debate the question of the
headscarf and other religious issues in public schools demanded that the state respect the freedom of building mosques, funerary rituals, and culinary customs and proposed the recognition of the most important religious feast of minority faiths as public holidays, but the French government rejected all such proposals. Thus the comparisons of Islamic customs with oppressive regimes did not originate with Marine Le Pen, but their blatant use as a campaign strategy found their first significant success among voters with the National Front. Le Pen played on existing fears and societal tensions and parlayed her personal fears and prejudices into a political platform that gained her and the National Front 12 to 14 % of the vote in 2012 pre-election polls, and 18% in the final round.

*Riposte Laique,* an organization dedicated to a « combat laïque [sic] et républicain » [secular and republican combat] and to a « projet de progrès social, sans lequel le mot République demeurait vide de sens »71 [project of social progress, without which the word Republic would be empty of meaning], posted the results on March 5, 2011, of a year-long investigation into the Islamic quarters of French cities. The organization, like the National Front and its adherents, denounced the occupation and blockage of entire streets by thousands of Muslims each Friday. *Riposte Laique* and its on-site investigators published documented articles revealing that these « pratiques illégales »72 [illegal practices] took place every Friday in four streets in Barbès (18th arrondissement of Paris), in the 11th and 20th arrondissements

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72 Lépante.
of Paris, and also in Puteaux, Clichy, Montreuil, Ulis, Drancy, the center of Marseille, two neighborhoods of Toulouse and in the center of Nice. Journalist Hugues Serraf, in his article « Prières de rue : PS tétanisé, intégristes légitimés, FN regonflé » [Street prayers: the Socialist party paralyzed, integrists legitimized, the National Front boosted], also considers those who pray in the streets to be privatizing the public space, which is, for him, « l’assouplissement hypocrite de la loi de 1905 » [the hypocritical softening of the law of 1905].

Despite having denounced the speech that had incited so much controversy, the French government apparently agreed with the sentiments expressed by those who spoke publicly about the “occupation,” the private use of public streets, and its relation to the law of 1905. Interior minister Claude Guéant announced that beginning September 16, 2011, a former fire station on Ney Boulevard in Paris’s 18th arrondissement was to be rented for three years by the French state for 30,000 euros per year and used by Muslims. The goal was to put an end to the weekly prayers by moving Muslim worshippers from the streets of Paris to 2,000 square meters of the former Clignancourt station until an actual mosque could be constructed. Spurred by the city councils of Paris, a 4,000 square meter institute of Islamic cultures is set to be completed in 2013. The city of Paris will invest 23 million euros in the cultural section, and the Muslim religious association will invest 7 million euros in the construction of the institute.

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73 Serraf.
The French state considered these temporary quarters to completely replace the weekly Paris street prayers that had taken place for years, as Claude Guéant announced on TF1 that « parallèlement à l’ouverture de ce nouveau lieu des prières de rue, jusqu’alors tolérées, deviennent officiellement interdites » [parallel to the opening of this new location, street prayers, tolerated until now, become officially banned]. He stated that the problem of Muslim street prayers concerned more than one thousand people in the north of Paris at the time of the mosque services of Myhra and Polonceau streets, both overflowing since the closure years before of the Tanger street mosque, which brought 4,000 together in the neighboring 19th arrondissement, and he recognized that street prayers persisted around two mosques in Marseille and in Nice. Guéant had already warned the grand jury: « Il n’y aura plus de prière dans la rue dès le 16 septembre » [There will be no more prayer in the street beginning September 16] and that « si d’aventure il y a des récalcitrants nous y mettons fin » [if by chance anyone is uncooperative we are putting an end to it]. « Ma vigilance sera sans faille pour que la loi soit appliquée » [My vigilance will be unfailing so that the law will be applied], he had proclaimed the day before. Both warnings are reminiscent of Nicolas Sarkozy’s promises made earlier that year to enforce the burqa ban. Just as those against visible signs of religious belief called upon women’s rights to justify their objections to the veil and the burqa, Guéant

74 16 September 2011. TF1 News.

75 16 September 2011. TF1 News.

76 15 September 2011. TF1 News.
claimed to attend to the interests of those he promised to restrict: « Prier dans la rue n’est pas digne d’une pratique religieuse »77 [Praying in the street is not worthy of a religious practice]. The man who expended so much effort to banish a non-violent, non-coercive act on the basis of its religious nature had suddenly, and briefly, given lip service to the respect for religion. Through the Interior Minister, the government that he served was claiming to know what was worthy and unworthy of the very thing that it had spent the last twenty years attempting to banish from view outside of one’s private, personal space. It seems that the state once again followed a familiar pattern with Muslim practices – prohibit and declare an act to be illegal due to its contradiction with laïcité, enact a law prohibiting a custom in which nonbelievers are not being forced to participate, and publicly affirm the state’s determination to enforce the new law. In each area of tension between Islam and the state, the French government has resorted to reactionary politics rather than examining how each of the Muslim customs involved in the continuing legislation truly impacts the fabric of society in an attempt to construct the homogeneous society that politicians hope will eliminate conflict and prevent social upheaval.

77 15 September 2011. TF1 News.
THE 1905 LAW REVISITED

Many have cited article 2 of the law of 1905 – « La République ne reconnaît, ne salarie et ne subventionne aucun culte » [The Republic neither recognizes nor subsidizes any religion] – as a justification for a ban on Muslim religious practices that are exercised in public places in view of non-Muslim users of state-run institutions, yet the law contains no ban on signs of religious membership in public institutions. The language of the law simply states that the Republic will not finance or favor any religion; it does not state that religious faith and its accompanying symbols and practices may only appear in private or that rights are violated by being exposed to others’ religious beliefs via their attire, diet, or prayer. That principle is a late-20th century interpretation of the law stemming from discomfort with a Muslim population that is becoming more visible due to its growing size. The law of 1905, according to sociologist and laïcité scholar Jean Bauberot, authorizes the free use and maintenance of existing worship buildings. Churches erected before 1905 became the property of the state, which maintains the buildings and loans them to churches at no cost. Most Catholic churches today, along with half of Protestant churches and a third of synagogues belong to the state.78 Constructing new religious edifices is costly, and many city councils have blocked the construction of mosques, whether for financial or other reasons. Marine Le Pen, not surprisingly, stated on TF1

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78 Kostrz.
News on December 19, 2010, that Muslims must pay for their own mosques and not only demanded a halt to all public financing for the construction of mosques but also demanded that Muslim-financed mosques be modestly constructed: « Je pense que les fidèles doivent financer leurs propres mosquées dont je réclame qu’elles soient modestes et qu’elles ne soient pas ostensibles avec des minarets qui s’élèvent de plus en plus haut » [I think that the faithful must finance their own mosques which I demand be modest and not ostentatious with minarets raised higher and higher]. Again, the discomfort with and fear of Islam comes through any other attempted justifications, as she finishes with a desire for simple mosque designs rather than the minarets that had so often made the news in France and elsewhere in Europe. Her idea is that France’s roots are in Christian tradition, though such religious values are now merely cultural traits that no longer shape individual lives as they did in the past, reiterating Claude Guéant’s hypocrisy by calling on one religious tradition – from a country that now attempts to banish religious presence – in order to justify banning another religious tradition.

Jean Baubérot - sociologist, laïcité scholar, and member of the Stasi Commission that examined the law and made its recommendation to the state regarding the veil in school - writes that the Republic must be independent of particular philosophic religions and convictions. None of those fighting against


80 Kayi.
accommodating religious practices disagreed with this statement; in fact, this portion of the 1905 law was often spread out before fellow lawmakers, other state officials, and the French population in defense of laïcité. The schism came in the interpretation of this text. Where Baubérot and other political moderates saw a mandate to prohibit the favor of one religious denomination over another, those brought out of their comfort zone at the sight of openly practiced faith saw a justification for a brand of separation of religion and the state not actually authorized by the law.

What the law actually says is that the state will not recognize any particular religion. The third edition of the New Oxford American Dictionary defines recognize as “acknowledge the existence, validity, or legality of; officially regard (a qualification) as valid or proper; show official appreciation of; reward formally.” Thus a literal interpretation of the law requires that no benefits be granted to one group but not to another on the basis of that group’s particular religious leanings. The state must ensure the equal exercise of religious beliefs and cannot legally confer its approval of the validity of one religion while denying the same to another denomination, yet that is precisely what the French state has done. There are three recognized cultes (religions) in the Alsace-Moselle region – Catholicism, Judaism, and Protestantism – a fact that has gone unmentioned by lawmakers and the media. Even ignoring the gaping legal issues involved does not explain the reasoning behind the official recognition of these major religions. It is not a question of the longevity of any faith, as Islam is as old as the Christian religions that have historically been a part of European culture. Islam, in fact, originated with a descendant of Abraham (a
Jewish ancestor of generations of the faithful), as did Christianity. Yet in the name of 
neutrality, Alsace and Lorraine were allowed to keep the official religious recognition 
granted to 3 of the world’s major religions under German rule while the same 
recognition was denied to Islam.

Contradictions even exist in the school setting, where the conflict between 
Islam and the French state first erupted. The law of 1905, referred to as the law of 
the separation of Church and State, has been referenced in support of severing any 
connection between religion and education in France, yet under a contract set up by 
the Debré Law of 1959, staff expenses in private schools are covered by the state for 
teachers and state-accredited professors. Based on public sector costs, the state 
subsidizes private (mostly religious) schools, equalizing the financing of public and 
private education. Surprisingly, in light of the standardization of curriculum content 
in French public schools, the Debré Law allows more freedom in curriculum 
content for private schools. Private schools make up a significant portion of schools 
in France (14% of primary schools, and 21% of secondary schools) and are attended 
by 20% of the school population, meaning that France has contracted to release 
curriculum decisions to the private and/or religious sector for one fifth of its student 
body (thought the State does control teacher training in private schools), while at 
the same time refusing to allow headscarves for the much smaller percentage of 
students who have not requested any changes to the curriculum used to inculcate

81 French primary and secondary schools are administered nationally, providing 
identical course content and national examinations for all subjects.
the values and customs of the Republic to its residents and citizens. The French government further blends faith and the state by providing salaries for religious personnel in secular institutions such as prisons and the army, both obviously state institutions. It recognizes religious holidays, though it supposedly does not officially recognize the religions behind those holidays, provides tax exemptions to faith organizations (which was one of the many points of contention with the pre-revolutionary Catholic church), and even finances chaplains in the public schools it says should be free of the presence of religious affiliation.

It appears that the principle of laïcité as it is now understood by the French state had not risen to the surface at the time of the Debré Law and other regulations allowing subsidies and exemptions for faith-based organizations because the religious presence in public schools in the 1950’s was not visibly different from the majority and thus posed no threat to the make-up of a society with Christian roots stripped of their influence in government and daily life. The visible presence and practice of Islam, a religion that by its very nature does not separate faith and day-to-day life and cannot relegate religious influence on decisions to the private sector without violating important tenets of the faith, now threatens French identity in that its visible practices not exhibited by traditional religions in France’s past now disturb the homogeneity that the state has vehemently attempted to maintain at least on the surface of French society.
IN SEARCH OF A NEW “ÉGALITÉ”

The difficulty in reconciling differences without stripping residents and citizens of all traces of their foreign origins lies in France’s notion of equality not as equality of opportunity but as a straightforward sameness, or at least as a lack of distinct differences. Adrian Favell, in *Philosophies of Integration*, describes the French model of political unity as rejecting the existence of “distinct ethnic or cultural minorities.” It seeks instead to put in place a “logic based on the equality of individual persons.” Merriam-Webster defines *equal* as “of the same measure, quantity, amount, or number as another; like in quality, nature, or status; regarding or affecting all objects in the same way,” while *individual* is defined as “of, relating to, or distinctively associated with an individual; being an individual or existing as an indivisible whole; existing as a distinct entity,” but the French government has redefined the two terms and has withdrawn the equal status of its Muslim residents and citizens in an attempt to render its individual inhabitants identical when in public view.

Despite the remarks made by high-level political officials and the undeniable aim of specifically limiting Islamic modes of self-expression rather than religious manifestations in general, the ethnicity or religious membership of specific groups affected by the legislation of the last several decades has no official statistical basis because state policy actually prohibits identifying any category of minority populations. The *Haute Conseil d’Intégration’s* (High Council of Integration, or HCI)
academic advisor, Jacqueline Costa-Lescoux, has an integration formula that refuses official identification of individuals as racial, confessional, or cultural minorities for the purposes of state action. There is no census data in France based on ethnic classification; facts, figures, and statistics are available only for those officially classified as *étrangers* (non-nationals) in juridical terms, which fails to take into account the North Africans who are full French citizens, though the public and social scientists continue to refer to them as *étrangers*. Nationality Commission reports published in 1988 state that: “individuals with private or particular interests are not to be allowed to pursue or gain the intrinsic value of their culture for their own benefit alone, since particularistic interests that have not been ‘organized’ will impair the liberty of others,” suggesting that specific individual interests and more general public interests cannot coexist without cancelling each other out. It is a microcosm of a conflict that Samuel Huntington says began with the French Revolution: the clash of nations, or civilizations, rather than ruling princes seeking to expand their kingdoms. He explains the term *civilization* as “the highest cultural grouping of people and the broadest level of cultural identity people have short of that which distinguishes humans from other species. It is defined by common objective elements, such as language, history, religion, customs, institutions, and the subjective self-identification of people.”

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82 Favell, 78.

Non-Muslim residents were not prohibited from wearing a headscarf to school. The media contained no reports of protests against the schools that served fish on Fridays in honor of Catholic customs as they did with requests for halal meat. Priests and nuns were not threatened with arrest for wearing their religious attire in public. Only practicing Muslims were targeted, but since French law ignores the existence of religious and ethnic characteristics, there is no foundation of law that would disallow the “unofficial” campaign against a visible Islam in France. With their obvious religious and cultural presence, Muslims have had to choose between renouncing the beliefs and practices by which they identified themselves and a residence/citizenship without some of the basic rights afforded to other citizens. France’s insistence on the absolute incompatibility of public and private interests in the same space, coupled with Huntington’s observations of slow-to-change cultural and historical self-identification, provides little hope of France being willing to sanction a legal space in which immigrants do not have to leave their customs at the border in order to fully participate in French society.

In 1990, a report by André Hussenet – *Une politique scolaire de l’intégration* – shows that since the beginning of the conflict between practicing Muslims and laïcité experts, politicians realized that the cohesion of immigrant cultures would prevent the reliance on the French state necessary to erase ties to their religion and culture of origin:

To integrate is to establish a stricter interdependence between the members of society, something which implies that the Ecole de la République must impart to its pupils a common knowledge [un savoir
[commun], humanist values of equality, liberty, solidarity, and enable their access to rational thinking, while at the same time underlining the opening of French culture to the world...In order to achieve these objectives, we propose a single principle: the same ambition for everyone and two main orientations: the removal [correction] of inequalities and the opening of French culture to the world.⁸⁴

The “interdependence” advocated in the report clearly refers to relationships within French – not Muslim – society, and is said to entail identical knowledge imparted to all students of republican schools. Depending on citizens with a traditionally European background would in theory bring about similar ambitions for life and similar responses to societal challenges, and educational influence is the primary method of spreading what France wants those commonalities to be.

This homogenization of values and goals can be accomplished seamlessly when the group to be transformed into a likeness of the host country gives its consent, but this is exactly the point at which the two groups part ways. Merriam-Webster defines assimilate as “to make similar; to alter by assimilation; to absorb into the culture or mores of a population or group,” and the French state does indeed want Muslims residents and citizens to alter their customs to the point where they are so well-absorbed into France’s particular view of the world that their previous religious and cultural differences are no longer noticeable. Muslims, however want to retain their Islamic cultural customs and religious observances and,

⁸⁴ Favell, 74.
in general, have no plans to renounce the parts of their identities originating outside of France. Davis Pryce-Jones quotes Palestinian Nasir al-Din Nashashibi as expressing pride in their Arab heritage and the firm intention to not only maintain it but to pass it on to future generations: “We are Arabs because we maintain ties with our past, are proud of our traditions, and glory in the heritage of our fathers. Our generation guards this heritage so as to pass it on, pure and complete, to our children and grandchildren...”

85 Though not necessarily Muslim, any mention of Arab heritage or cohesion strikes fear in the heart of the French state, as Arab and Muslim are often understood – albeit incorrectly – to be synonymous.

86 Pryce-Jones.
CONCLUSION

This level of determination, echoed by Muslims in France who have persisted in wearing the headscarf or burqa, requesting halal dietary accommodations in schools, and praying outdoors in the absence of suitable indoor facilities, strikes an extremely sensitive nerve in the French psyche: that of France’s national identity. Continually professed but ambiguously defined, the French identity has been used as justification for exclusionary laws regarding Muslim practices and has never failed to assert and defend itself when faced with the view of Islamic traditions that have grown rather than faded away as expected. As far back as 1983, Mohi ed-Din Saber stated at a Euro-Arab dialogue that “the Arabs are viewed as an illiterate and fanatical people,” a view that recent remarks by French politicians prove has not changed. They have looked at the headscarf and the rarely worn burqa as symbols of radicalism and oppression of women, and halal meat and street prayers as reminders of violence and foreign occupation, and have consistently refused to acknowledge what may be the simple faith character of these customs, though it is precisely that element of faith that provides an additional reason for laïcité advocates to campaign against those customs. “We are Arabs because we cherish spiritual values; we shall neither renounce them nor exchange them for others, for the foundations of these values are the true, the beautiful and the good…” continues the Pryce-Jones citation of Nashashibi, indicating the intention of many Arabs to retain the spiritual elements

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87 Pryce-Jones.
of their culture of origin rather than exchange them for European-style laïcité, and the degree to which France’s North African population has adhered to these declarations indicates a resolve that will not be remedied by legislation.

So why does the state continue to push through new laws against each practice of Islam that advances beyond the Islamic home or mosque? How can 2,500 years of history and tradition be wiped out by Islamic customs not forced on residents of France? Voltaire wrote in the 18th century that the Turks were earth’s greatest curse and that he wanted to annihilate them. French scholar and politician Volney wrote of the Ottoman “barbarians” in 1788 that “with their stupid fanaticism they perpetuate the contagion by renewing its germs.” In 1985, Le Figaro ran a cover story entitled “Will France Still be French in 2015?” illustrated by Marianne, the symbol of France, wearing a Muslim veil. And it is difficult to forget Marine Le Pen’s 2010 comparisons of Muslim street prayers to the WWII Nazi Occupation of France. Why has the rhetoric remained unchanged for centuries despite the personal experience of having Muslims living in France who do not force the French to practice Islam? Why, as Shryock writes, are Muslims “depicted as a collective body that is (or ought to be) responsible for the misdeeds of its animal element”? Why can French and Muslim cultures and customs not coexist without the dominating group continually legislating against the minority? Why was, as Favell describes, “a

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88 Shryock/Mastnack, 41.

89 Koonz, 176.

90 Shryock, 5.
higher individualist price\textsuperscript{91} exacted of French Muslims in return for citizenship, political participation, and social integration and acceptance? Is the French identity so fundamentally weak that it cannot withstand the exercise of diverse beliefs on its soil? Is it so unstable that it will crumble alongside a headscarf or a man kneeling on a mat in the street?

The answer may lie in a notion common to groups of any size, from nations to neighborhoods – the basic assumption that one’s own culture and lifestyle is in some way superior to others. Hussenet’s 1990 report on integration proposes “the opening of French culture to the world”\textsuperscript{92} as a method of achieving integration into French society. Favell labels the French tendency to impose its culture and underlying beliefs on foreign groups on its soil as “moral orientalism,” where “the state assumes it has a monopoly on what is best morally; the alien culture fails to match up by definition…assuming, because of certain visible forms of behavior that are different from those taken to represent the normal path to full autonomy in the public sphere, that the foreign culture is less moral…”\textsuperscript{93} Samuel P. Huntington writes that civilizations assume that modernization and economic development will homogenize society and produce a common Western-style culture, which is the goal French law has unsuccessfully pursued. Lawmakers have spent the past thirty years battling Islam’s visibility on French soil, as it has seen Muslim culture as immoral,

\textsuperscript{91} Favell.

\textsuperscript{92} Favell.

\textsuperscript{93} Favell.
oppressive, and backward because it continues to cling to its religious beliefs and visible practices, which contradicts the secular society emptied of all reminders of religious belief that France sees as progress. The law of 1905 was originally intended to free the nation of the political and personal control of the Catholic Church that had participated with the monarchy in oppressing the French population. It was not intended to erase religion from the public space, and the text does not require the complete separation of religion from the public space. It simply says that the state cannot favor one religion, or denomination, by financing its interests to the detriment of another. It provides for the free exercise of religion without forcing the population to observe any one faith; the text does not prohibit the public appearance of religious belief and does not say that such public manifestations constitute a violation of the rights of non-believers. Since the 1980s, however, France has moved to “liberate” public spaces from the signs and observances that remind society of religious faith, whether or not a person wishes to be so liberated, manipulating the Law of 1905 and the French Constitution to conform to a goal never intended by either document - not the freedom of religion, but the freedom from religion.
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