

# To be laic or not to be laic? A French dilemma

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Do the French have a problem with Islam? Reading the newspapers over the last 15 years, a foreign observer might be forgiven for concluding that Muslims are not welcome in France. In 1989, young girls trying to go to school wearing the Islamic veil were expelled. Now in 2004, a law has been passed that prohibits the sporting of visible religious *emblemata* in state schools. This is in addition to the difficulties some workers have in procuring *halal* food at lunchtime, the lack of sufficient chaplains in hospitals or prisons, conflict over Muslim plots in local cemeteries; or the construction and opening up of places of worship – not to mention all the negative coverage filling the media.

These difficulties faced by Muslim populations in Europe are not peculiar to France. Other host countries absorbing migrant workers in the 1960s had to come to terms with exactly the same issues. What makes France unique is something else. It has less to do with the ‘specificity’ of Muslims, than with the complex and violent history of the tie binding religion and the state in the French experience. This partially explains the passionate nature of the discussions that have erupted over the Islamic veil. In contemporary France, anything to do with religion and the public space, with secularism and politics, or with faith and citizenship has to contend with the overarching framework of *laïcité*.

On the one hand, *laïcité* is history. On the other, *laïcité* is law. Broadly speaking, it governs all the options relating to religion in France. Now, what do French people have in mind when they speak

about *laïcité*? What drives them on to the streets to defend it? Questioning French citizens about the legitimacy and relevance of their passionate commitment to *laïcité* might appear as great a blasphemy as asking the English about the rationale for having a queen. Like old habits or family traditions, it’s there and you never directly question its legitimacy. Somehow you even forget why it’s there. In a way, *laïcité* is our queen: part of the national patrimony you don’t dare to contemplate a younger generation criticising. Today, it even takes precedence over the tradition of *jus soli* that we were so proud to defend only one or two decades ago.

To what extent is a French citizen’s behaviour governed by *laïcité*? Let me share with you two anecdotes that helped me come to grips with how this framework influenced my own perception of ‘Otherness’. Between 1992 and 1997, I wrote most of my PhD in political sciences in Berlin, where I was studying the Turkish Muslim community. Consequently, when I began to study Turkish at the Freie Universität, it was together with some German students. The lessons regularly began with the same fairly boring answers in our hesitating Turkish to the professor’s opening question: ‘What did you do before coming to classes this morning?’ Apart from the difficulty of describing a very simple set of basic activities (having a shower, breakfast, taking the bus . . . ) with a vocabulary that was better designed for Ottoman poetry, I remember vividly the discomfort I felt in listening to other students saying in a Turkish as poor as mine that they had been praying or reading the Bible before having coffee.

How could they talk so brazenly about their religious feelings in public? During that same period, I was sharing a flat with a family with three children, helping the mother out as an *au pair*. They were French and practising Catholics. I remember the year they arrived in Berlin and had to make their first fiscal declaration to the German State. They were so happy when they discovered that they had the opportunity to declare their faith on this administrative form – a situation that could never arise in France. And so unhappy when

over the following months they discovered exactly what it meant: that eight per cent of their annual income would routinely go to the regional (Länder) Catholic Church. When the same time came round again in the following year, they duly declared themselves non-believers, hoping thereby to avoid paying tax to the Catholic Church. You can imagine the huge family crisis when they were summoned to the regional office of the tax authorities together with their 14-year-old daughter, to explain to a priest the reason why they had so abruptly forsaken the Catholic community from one year to the next! No need to explain to you the difficulty of convincing an adolescent to lie about her own faith! In a country where religious communities have a juridical status that empowers them to raise taxes, don't even think of simply changing your mind!

These anecdotes illustrate quite clearly the contrast between the experience of living in a context where religion is not considered appropriate to the public space, and one in which religion has a recognised institutional position that enables any citizen to have their say on that subject, without being considered disloyal to the nation, or anti-republican.

Internationally, France is well-known for many things. But there is something we claim to be ours alone and not exportable, *laïcité*. We do not have a problem with religion. We do, however, have a problem with our founding myths. And *laïcité* is a core element.

At the same time, it is a loose concept with no single, precise definition that would ultimately limit its powers. However, over the years, it has given rise to a productive case law dealing with the interpretation of certain principles (the neutrality of the state, freedom of conscience) in specific sectors (employment, school, public order). To anyone looking on, moreover, it seems at one and the same time deeply rooted in the individual consciousness, and intimately anchored in our national history. In February 2004, after all, many of the politicians who leapt to its defence still consider it part of the direct inheritance of the French Revolution and Third

Republic. And who dares meddle with a myth?

Interestingly enough, during the parliamentary debates discussing the text of the prospective law, few MPs tackled the more practical dimensions of the debate: rather, they lingered at a very abstract level, drawing their inspiration from some of the truly big names and central figures of the French process of secularisation (Ferry, Gambetta, Briand, Jaurès) to justify their vote. None of them really based their decision on the contemporary situation. Of 577 MPs, 494 approved the text of the law prohibiting the presence in public school of 'signs and clothes clearly manifesting the religious affiliation of pupils'. But France 2004 is not 1905 France. To give only one example, the 1905 Law on the Separation of Church and State that is today considered a central pillar of the *laïc* system fell far short of commanding parliamentary unanimity: 341 MPs against 233 adopted that legislation.

When it comes to *laïcité*, there is a tendency to claim French exclusivity. It begins with the word itself. This is not the same thing as secularism, even if the latter is a component part of the former. Using the French term *laïcité*, as I do throughout this text, stresses the specificity of the concept in the French context and conveys a general impression that an 'institutional dissociation of religion and morals; the creation of secular morals, the transmission of which is ensured by educational institutions, makes French *laïcité* something rather more than the simple separation of Church and State', as Jean Baubérot once put it. A cursory look at its core principles, emphasising state neutrality, religious freedom and respect for pluralism, might render this so-called 'French specificity' somewhat elusive. But until March 2004 when parliament approved the law banning visible religious signs, there was no single law that defined *laïcité*: rather it consisted of a general principle made up of various legal jurisdictions and interpretations relating to specific sites of application (school, work, public places).

The 1905 Law of Separation of Church and State is often looked to, mistakenly, as the equivalent of a *laïcité* law. But interestingly enough, the word itself is not mentioned in that text. Nor can *laïcité* be confined to a law which codified legal relations between the State and the various denominations that co-existed in France in 1905. Until 1989, debate about how to apply *laïcité* was indeed primarily juridical, consisting of accumulated pragmatic and liberal interpretations of the letter of the law. But since the first controversies arose over the veil, the term has been increasingly subject to political definition. Moreover, *laïcité* has been invoked as a set of republican values, not just the expression of constitutional principles, thereby raising the temperature all around. As lawyer Geneviève Koubi said in 1998: 'When the starting-point of any discussion of *laïcité* is the wearing of a religious sign, the scarf in this case, it rather disguises the fact that what is at stake in this controversy is not state schooling, but the capacity of the whole of our civil society to put some of its major schisms behind it, and to approach the social, cultural and religious diversity of France with a degree of serenity.'

### ***Laïcité* and the French State**

*Laïcité* was made a constitutional principle in 1946 (and again enshrined in article two of the 1958 Constitution). The constitution would henceforth defend a legal framework in which freedom of conscience and the free exercise of religion are not only guaranteed but protected through a system separating the French State from religious affairs. Within this system, the definition of religion would be a denominational one. Religions exist only in and through their institutions, and are publicly represented primarily on the basis of the practices and rituals linked to their places of worship (church, synagogues and so forth). This would signal once and for all an end to the pre-eminence of the Catholic Church.

Constitutional status was meant to place this whole set of

principles firmly above any legal contestation, but of course it did not rule out problems of interpretation and requests for legal intervention in cases where conflicts arose over its implementation.

It also placed the French State itself in the difficult and somewhat ambiguous position of having at one and the same time to be indifferent to religions, but also tolerant of them. The State is said to be 'incompetent' with regard to the internal workings of religion: each denomination should have its own source of authority. Concretely, the distinction drawn at the core of *laïcité* between political power and religion requires that religious institutions do not enter into politics and that politicians do not interfere in religion. But this separation has a long and complicated history in itself. The 1905 law did not happen simply overnight. The 1880s saw the extensive 'laicisation' of hospitals and cemeteries, but state policies excluding religious expression from public institutions such as schools and the regulation of the public rights and representation of certain recognised religious minorities, date back to the beginning of the 19<sup>th</sup> century.

Moreover, the legal framework suggested by the 1905 law also helped to enshrine a much older fault line between what most historians refer to as the 'two Frances'. Jean Baubérot, famous historian of *laïcité*, begins his account of the different steps that led progressively to the implementation of the *laïcité* regime with the French Revolution and the challenge at that time of opening up the polity to religious pluralism, particularly Protestantism and Judaism. After all, it is only since December 1789 that French Protestants have been allowed to vote and can stand as candidates in elections. Jews were given the status of 'citizen' in 1791. With this emancipation of society from religious authority, the French Revolution also ensured the emergence of a certain set of public freedoms – the right to the public expression of private beliefs – on condition that your loyalty remains to the Republic. As Emile Poulat points out, the French Revolution organised the change from a system based on tolerance, to a regime of freedom where the

central borderline becomes the private–public one.

If this in itself constituted a profound emancipation, it was because of the deep-rooted hold of Catholicism on French society. Later on, another wave of consolidation of the secular principle resulting in the further separation of church and state in Third Republic France, stemmed largely from attempts to combat the anti-republican and anti-revolutionary intransigence of Catholicism in France. Religious pluralism was finally made law in the Concordat signed in 1802, which introduced a system of recognised religions. While Catholicism was to be considered the religion of the majority, the French State would recognise four religions (Catholicism, two branches of Protestantism and Judaism).

The 1905 law introduced several major changes to the status quo. The State withdrew its funding from churches. This was of course a heavy blow. One of the law's provisions dealt with recognised denominations. In order to be designated an *association cultuelle* and given the entitlements that went with this, a group of people would have to confine their activities exclusively to religious matters, cutting out broader social and cultural activities. This new category of denominational association was from the first rejected by the Catholic hierarchy, whose traditional scope of influence was severely limited by such qualifying conditions of purpose and transparency. At the same time, the legal definition of the *association cultuelle* spelt out in detail all matters relating to places of worship (purchase, renting, building and upkeep) and to the religious ministries (mainly training and paying them). This partly explains why so few Muslim associations are of the 1905 type. Indeed, most of them have adopted 1901-type status instead. France's law on the freedom to associate – regarded as a central plank of our republican principles – was passed on 1 July 1901. Since 1981, foreigners in France are also entitled to create a 1901-type association.

If the Muslim community fought shy of the 1905 legislation it was, however, in large part because of the way it was implemented. Let us

not beat about the bush: when it comes to identifying whether a place of worship is really used for religious purposes or not, faiths are treated rather differently. Where it concerns Catholic venues, it is mostly a question of: can a church be used for a concert? What about the payment of a fee to enter a church? Can postcards be sold inside the Church? When it comes to a mosque, the nature of the question changes: what are Muslims really doing when they go to worship?

The 1905 law also codified many aspects of local life and practice such as the acoustic level of the church bells, the right to make a religious statement outside a religious building, and so on. Conceived as a step towards social healing and reconciliation by setting up a clear border between the political realm and the religious one, the 1905 law in fact introduced many revolutionary changes. As an affair of state, it implies the privatisation of religion (meaning to say, not the negation of religion in public spaces and the end of religious affiliation for French citizens, but rather the neutering of its social impact).

### **Those exceptions that prove the rule**

In fact, close attention to the way the law was negotiated and thus implemented, reveals that the legacy of Catholicism has remained central to the Republican tradition. Among many examples, we might single out the setting aside of certain religious dates as national holidays. This was revisited in the report edited by the '*Commission de réflexion sur l'application du principe de laïcité*' (hereafter Laicity Commission) set up in July 2003 by the French Presidency, to advise the government on the wearing of 'visible religious signs in public schools'.

Some aspects of the law are less frequently in the public eye, but still deserve mention. French *laïcité* is, after all, made up of such a series of exceptions to the rule, introduced over space and time. Let us start with the application of the 1905 law on 'separation'. The history of the French state coming to terms with Islam dates from the colonial and in particular the Algerian experience. But the 1905 law was never

applied in French Algeria. Indeed, the approach towards Muslim local authorities bears a much closer resemblance to the Concordat system: some imams and judges were authorised to work by the state that paid them. Later, in 1947, Islam was declared independent from the French state, but in practice it remained under the authority of the French state and its local representatives in Algeria.

Today, there are still a few significant exceptions to the national application of the law on separation. The best known is the Alsace Moselle case which, because the area previously came under German jurisdiction, continues to practise the system of recognition elsewhere cancelled by the 1905 law. In Alsace Moselle, the French Ministry of the Interior is still entitled to approve the appointment of religious officials. The State still pays their salaries. Religious teaching in schools is compulsory. There may be constant questioning of this arrangement: nevertheless it exists to this day.

Another exception to the application of the 1905 law is Mayotte, where most of the population is Muslim. Until 2001, two juridical systems coexisted side by side: on the one hand the common law, and on the other, the local law applied by Muslim judges whose standing was nevertheless endorsed by the French State representative on the island. As with the bishops in Alsace, these judges continue to be paid by the State. The 'no public funding for religious business' requirement is similarly littered with exceptions. Article 2 of the 1905 law explicitly says that the State budget should be cutting all expenses related to religious affairs. Concretely, whether indirectly or not, many religious institutions or buildings, through tax exemptions, support for access to credit, attribution of a piece of land for a symbolic price, and so forth, continue to be supported by considerable state funding. In some cases, even Islamic ones. The Islamic Cultural Centre in Rennes is probably the best example. It opened in 1982, thanks to the support of the municipality: a Muslim association occupies it for free. In Montpellier, one of the mosques has been renovated thanks to public funding. A

Muslim association is today renting the building for a price that is far below its real value.

Then there is the claim by the State that it has 'no competence in religious affairs'. But you only have to look at the ritual slaughter for the celebration of the Aid el-Kebir as it took place in February 2002, to see a remarkable confusion of competences. While the Ministry of Interior, Nicolas Sarkozy hosted the numerous meetings that preceded the election of the French Council of Muslim Worship (CFCM) in May 2003, Muslims living in France prepared to celebrate the sacrifice of Ibrahim (Abraham, in the Bible). Every year the situation is the same: increasing family demand for animal slaughter, insufficient slaughterhouses and poor distribution. To give an example: in Seine Saint Denis, north of Paris, one inhabitant out of three is Muslim, but there is not one slaughterhouse in the area. Every year the same question confronts Muslims and local and national authorities alike: how can you reconcile a religious rite with French and European regulations regarding hygiene, public order, public health and the protection of animals?

Annual guidelines from the Ministry of the Interior are supposed to advise municipalities on how to proceed. Until 2001, the advice was rather pragmatic: to satisfy the demand, they authorised the opening of provisional sites of various types (old slaughterhouses, factories and stadiums). To be sure that the nature of the festival would be preserved, Muslims responded to the lack of amenities with equal pragmatism, some of them having recourse to local farms or their own homes (bathrooms, backyards or garages). In February 2002, a European decision banned all such temporary sites. The entire slaughter must be confined to legal and official slaughtering places. Another new proposal obliged Muslims to buy the animal not directly from whomever they chose (most of the time, farmers), but from butchers or other official meat traders. This meant that there could be no guarantee that the slaughter took place at the 'right time', or was done by the 'right person'. However, politics and

religion began to overlap with a vengeance when the Ministry of the Interior, on the basis of a *fatwa* produced by the Mosque of Paris, announced in a letter to all concerned that the ritual slaughter for the Aid el-Kebir was not a religious obligation; and that instead of killing an animal, Muslim families living in Europe should send money to their relatives in 'the home country'. After this, some Muslim leaders started calling the Interior Ministry, 'the Mufti of Paris'. It was just one more example of the abiding need to disentangle the realms of politics and religion. But French *laïcité*, we can say with some confidence, is anything but strictly applied . . .

### **The battle over the veil**

Most problems start with the varying interpretations of these principles and French legislation, ranging from very militant (no religion allowed in social life) to moderate (*laïcité* protects religions). The history of the juridical interpretation of *laïcité* is constructed out of just this oscillation between two extremes, local pragmatism summing up the management approach towards Islam. Recent episodes of the Islamic veil affair are a good example.

The century of practices and ensuing applications that followed the passing of the 1905 law is characterised only by the pragmatic and liberal approach adopted by the judges in general. If you care to look closely, there is a persistent gap between texts, norms, laws, discourses and practices. Take the indirect discrimination produced by the 1905 legal text in itself for instance. *Laïcité* is meant to ensure equal treatment of all religions, that is, all denominations present on French turf should be accorded equal opportunities to practise and promote themselves. In France, this is one component of the public freedoms that the State should be proud to guarantee. In practice, of course, matters fall out rather differently. It should not be forgotten that in France a spirit of respect and tolerance towards religious pluralism hardly rests on a long tradition and historical experience of religious diversity. After all, *Cujus regio, ejus religio*: France has a far

longer history as a country of a single and unique religion (Catholicism). Compared with other European countries obliged to deal with pluralism at least within Christianity, its experience of religious pluralism is recent indeed.

Beginning with the programme launched by Jules Ferry to create a free compulsory public school system that would emancipate society from religious authorities, the school has always been a central site for the defence of *laïcité*. It was no surprise at all when the climax of the battle for expelling Islamic veils from state schools erupted on the same terrain. As one of the first MPs proposing a reform of the Education Code in July 2003 put it: 'We should consider school as a sanctuary.' Hardly the appropriate metaphor for a project of reform intending to defend *laïcité* under threat! But what it is calling for is that school must be isolated and protected from any external political or religious influence at all costs.

School has always been a battleground for hostilities between defenders and opponents of *laïcité*. The secularisation of French society, as well as its unification (French is seen as a unique national language, which is also enshrined in the Constitution) requires the upholding of an educational system that is free, nationalised and compulsory. The strategic importance of this stems from the tremendous influence of churches on education before 1905. Prior to educational reform in 1886, most teaching was carried out by religious institutions. If *laïcité* is to be fought over, promoted or defeated anywhere, as the recent fracas around the Islamic veil demonstrated only too clearly, it is at school, the defining space for State neutrality. Here at school, teachers and professors are permitted no ambiguity: they have to submit themselves strictly to the letter and spirit of neutrality. As Ferry wrote in one of his most famous circulars, quoted incessantly in the 2004 parliamentary debate, and addressed to primary school teachers: 'Speak to the child as if it was yours . . . but never touch that delicate and sacred thing that is a child's conscience!'

In general, no matter in what domain he or she works, a civil servant is not allowed to express his or her personal opinions – political or religious. No religious insignia can be used by teachers in state schools, or any other agent working for the State at any level. In 2003 in Lyon, a Muslim woman requested permission to wear the veil at work. She is a public employee engaged as a works inspector. Her request has until now been rejected by the various levels of the judiciary. It is currently under appeal in the Council of State. Meanwhile, if to some extent, deliverers and consumers of public services are not treated equally within the framework of *laïcité*, the state service sector is 100 per cent neutral, to permit citizens to express their respective beliefs.

Instruction must be delivered in an impartial manner which respects different beliefs and freedom of conscience. This premise was also re-examined by the Laicity Commission. Some teachers they interviewed complained that more and more Muslim pupils seemed to show particular reluctance during history classes on the Second World War to accept the scale of the Holocaust, accusing Jews of deliberately exaggerating the horror. What should a teacher do under such circumstances? Is there a limit to ‘respect for beliefs and freedom of conscience’?

In November 1989, following the first ‘wave’ of Islamic veils in public schools, the Ministry of Education (left wing) received the Council of State’s response to the following question: does wearing a religious sign at school contravene *laïcité* principles? Their answer is rather opaque: wearing a religious sign does not in itself offend *laïcité*. Indeed, the project of national instruction is based on respect for the freedom of conscience of all its pupils. As citizens, they are thus allowed to express their beliefs, on condition that this does not amount to proselytising or propaganda, or creating confusion and disorder at school. It is at the discretion of the school director and school council to determine which rules should be followed at school. To sum up: it is not possible strictly to prohibit the donning of

religious insignia at school, but limits can be drawn.

In 1994, as a ‘second wave’ of veils swept through French schools, the Ministry of Education (right wing) published a directive encouraging the heads of state schools to draw a distinction between discreet and ostentatious veils. Up until 2004, all cases of final expulsion from school were those of girls refusing to submit to the obligation to be taught (asking not to participate in certain classes, such as sport or biology) or creating trouble in class (for example, by criticising the validity of teaching the Holocaust in history). For all other young girls, whatever their age or circumstance, mediation and discussion had secured their reintegration into school life.

So how did it come about that everything was reversed in 2003, ending up with a law banning certain religious signs from state schools – a ban which, if flouted, would lead to expulsion? One explanation lies in what has already been said: the lack of definition of the central concept, *laïcité*, and the lack of a law precise enough to guide practitioners such as teachers, trade unionists or lawyers in making up their minds over conflicting interpretations of the same. There is also a general distrust of Muslims and the grounds of their religious commitment, which cannot be underestimated. But the biggest obstacles stem from the intense politicisation of *laïcité*, as it is increasingly promoted as a Republican value rather than a constitutional principle. This in turn leads inexorably to the politicising of perceptions of Islam and Muslims. As a leader of a Muslim association emphasised to me during an interview in 2002: ‘In France, people confuse the defence of *laïcité* and the right of each person to live according to his own convictions. This country so fears the dissolution of *laïcité* that today no one can express their religious convictions freely.’

No one is right, no one wrong in this discussion. My attempt here is not to provide the reader with a blanket assessment. The intriguing aspect of the hysterical debate that raged at the centre

of French public life from April 2003 until March 2004, lies precisely in the proliferation of rationales justifying this ban. For some protagonists, the law is necessary to protect young girls who are unwilling to wear the veil. Others see a law necessary to help clarify the definition of *laïcité*. For yet more, state schools are an endangered species (violence, gender problems, drugs . . . ) and a law would help re-establish authority inside the 'sanctuary'. Others again require the legislature to intervene to reinforce the central principle of political participation and citizenship: what you are and do in private should not be seen in public. The range of positions in the 2004 discussion was much higher than in 1989 and 1994, thanks partly to the wider public's deeper appreciation and more detailed knowledge of the phenomenon at stake. Nobody would say today, as formerly, that wearing a veil is the symbol of alienation and submission to male authority. This is partly the truth of course, but people are aware of the various other reasons why someone might choose to wear a veil. Thanks to literature, thanks to the media, and thanks to Muslims also, who have raised their voices to explain their motives.

The 2003–04 controversy over the wearing of Islamic veils in state schools has in a way unified previously disparate arenas of conflict, bringing together issues of national identity; the protection of *laïcité* as a symbol of French political culture (and therefore of school as the ultimate test-bed for its translation into practice); the defence of ideals of justice, equity and the protection of fundamental rights; gender issues; public order at school, and so forth. The convergence of these many dimensions around the discussion of the legitimacy of the ban forbidding 'ostentatious religious signs' in state schools helped certain sectors to gain greater access to the core issues.

As a result, the debate over the Islamic veil has escaped its religious confines, to have a social impact way beyond the limited sphere presided over by religious authority, or Muslim practice and

interpretation. On the contrary, the definition of what was at issue, and the justification for intervening in such a discussion that began around 15 years ago and ended with the passing of a law in March 2004, has changed considerably over time. Moreover, when the CFCM, elected in May 2003, itself refused to make a definitive statement regarding whether or not wearing the veil is a religious obligation (which would have been judged illegitimate), it lost its authority in the continuing debate. This withdrawal opened up the door to participation in the controversy and definition of the issue to a whole range of new participants: non-Muslim religious authorities; non-practicing Muslims; teacher associations; feminist movements; academics; experts; MPs; government agencies; believers and non-believers alike.

### **Conclusion**

There are a number of issues besides the issue of the Islamic veil, relating to the public management of Islam, that neither the French legal system nor the state public administration has succeeded in pronouncing on clearly.

From a French perspective, underlying all these particular social and policy problems is the tension between a reading of *laïcité* that goes beyond the notion of state neutrality to rest implicitly on the assumptions of cultural Republicanism (that is, the quest for the individual citizen's loyalty to Republican values), and the legitimate and permanent presence on French soil of groups that take for granted, and sometimes call for public recognition of, a religious component to their identity, which in their view in no way contradicts their political commitment as French citizens. This goes to the heart of French sensitivity towards Muslim demands in general, and to issues such as the Islamic veil in particular. Add to this the further question of the legitimate sphere of discourse, action and practice that both registers – the religious and the political – should have at their disposal.

The system of separation as I have described it, relies on a situation that no longer prevails. The religious needs of the population have changed because the population itself has changed, becoming more diverse ethnically and religiously, less rural and more urban, with different professional skills and more distance from religious community life. The law of 1905 was supposed to produce equality between all faiths in the Republican framework. One century later, the current situation is more like a concatenation of 'implicitly recognised faiths' than a pure laic system. In many respects, the French institutionalisation of representative structures for Muslims is very similar to what has occurred elsewhere in the European Union. Muslims are systematically disqualified from the 'churchification' they might aspire to, because they cannot readily furnish the State with a unique spokesman and leader of the faith. Before April 2003 and the elections of the CFCM in France, Islam could in this regard be said to have been treated worse than Judaism, Catholicism or Protestantism. However, each institutionalisation process needs to be carefully assessed in context to see whether it is designed to monitor or to control the Muslim practices which it embraces. We can be sure that the French *laïcité* framework adds further complications to that assessment, since it poses the question: to what extent does the State go beyond its neutrality in actively supporting the creation of a representative Muslim body, given that since June 2002, it has even been willing to directly intervene as a mediator between competing electoral candidates?

Increasing Islamophobia, gathering racism and the multiplication of acts of discrimination remind us of the many difficulties Muslims are experiencing on a daily basis. Can that be attributed as such to a laic context? Certainly not. But the laic context may well be held responsible for the unequal treatment of Muslims when it comes to specific rights. There are for instance no Muslim chaplains in the army and only 69 out of 918 certified

chaplains working in prisons. Are all citizens equal when they die? Not in France, where some years ago, the mayor of Toulon refused to grant cemetery space to a North African woman on the grounds that she was Arab 'and should be a Christian'. Things have improved somewhat in the intervening years, but no satisfactory solution has yet been found for all the complicated issues involved, which are likely to grow in importance and urgency in the years to come.

On the whole, before March 2004, *laïcité* was perceived by Muslims and in particular by association leaders, as being favourable to the expression of religious pluralism and personal freedom with respect to faith. France has benefited for a long time from its reputation as a 'liberal country'. Whoever was willing to reside in France, given the nationality code, could become a citizen. *Jus soli* was the rule. There was no mention of the religious issue. But once it came down to cultural specificities, religious demands and the expression of differences in the public space and in politics, the situation of course was never that simple.

And that is precisely what is happening today: every country has its specific way of achieving social closure when it comes to defining one's national identity. Until 1999, Germany had the *jus sanguinis* system and restrictions over double citizenship. 'There ain't no Black in the Union Jack' wrote Paul Gilroy about the United Kingdom. To some extent, French hysteria over the veil signals the desire to set a limit on national openness to religious markers and to cultural differences. *Laïcité* is being invoked as a non-negotiable set of criteria as a result. But this very drawing of a line throws up further tensions and contradictions. Certainly, while the French State does not recognise any religion, it does not wish either to negate the legitimacy of individual or collective belief in a God.

Whatever else this may mean or not mean, you are therefore also free *not* to believe. You may be born a Muslim and die as a non-

Muslim: not something that is obvious to some Muslims. You may change religion during the course of your life. And you do not have to become a convert to attain French citizenship.

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