

RELIGION AND SECULARISM IN FRANCE TODAY

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INTRODUCTION

The complexity of the French principle of *Laïcité*¹

Philippe Portier and Jean-Paul Willaime

The French principle of *laïcité* or secularism in its polity is often viewed elsewhere as being unique. Since the Revolution of 1789, and particularly since the law of separation between church and state was promulgated in December 1905, an ethos of anticlericalism and a specific policy for control of the religious sphere became an integral part of the French identity. Other European states have different church-state configurations, and, frequently, official partnerships with religious institutions. France, on the other hand, is viewed as having systematically banished religious belief from the public space, relegating it strictly to the realm of private life. This volume will examine this perception of the French model and attempts to demonstrate to English-speaking readers that the configurations of the French principle of *laïcité* are both more flexible and complex than they appear to be. It is of course useful and illuminating to highlight unique French national cultural characteristics, stemming from philosophical foundations vis-à-vis those elsewhere. They have their genesis in the French Enlightenment which was characterized by a certain hostility to religion that is more pronounced in France than elsewhere in Europe. In Germany, it was possible for religion to be vigorously attacked, as for example in the works of Marx or Nietzsche. An entire way of thinking, which originated in the *Aufklärung*, particularly around Kant, caused religion to become a useful adjunct to reason confronted, it is true, by the power of Catholicism and not by Protestant reform; French philosophy, on the other hand, transformed religion into an expression of superstition and fanaticism. Since the eighteenth century, the texts by Diderot, d'Alembert, and de la Mettrie have transmitted a materialist form of thought that was reinforced in the nineteenth century with the development of positivism, and later by Marxism.

The question of religion has been the focus of political controversy in France over the years; the Catholics and secularists (*laïques*) clashed in the 'war of the two Frances' with a persistence that is still noticeable today. Parties to the right of the political spectrum have defended the claims and world vision of Catholics, while parties to the left have supported the demands of

secularists. The discord centred on evolving issues that varied over time: in the nineteenth century, it centred on the question of freedom, and in particular on the freedom of the press; from the 1880s to the 1910s, on the separation between church and state; and from the 1920s to the 1970s, on the status of Catholic schools. Notwithstanding the secularization of French society, the struggle between Catholics and secularists continues to persist in current discussions on issues relating to abortion, biomedical research or, since the 1990s, gay marriage.

French particularism is also evident in the legal domain. As they entered the modern age, most European countries retained models of cooperation between the state and religious communities, in diverse forms. In France things happened differently. The electoral victory of the proponents of the Republic, who came to power at the end of the 1870s, was reflected in 1905 under the Third Republic² in the construction of a separatist model that excluded any official partnership between the government and the church. The Concordat that came into being after the Revolution initially made religion an integral part of the state: the government, for example, planned a religious budget each year to cover the operating costs of ‘recognized’ religions. The law of 1905, which is still in effect today, altered this: the legal status of churches is now confined to private law, and, in principle, they have to finance themselves.

This political culture was not completely obliterated and is still to a certain extent evident in French society, but it would be wrong to think that it is overwhelmingly so. The original goals of the Republic were transformed by the social, ideological, religious, and political changes that have overtaken France since the end of the Second World War. New ideas, new rules, and new behavioural patterns have emerged, modifying the relationship between the church and state. The seven contributions in this volume describe this transformation. Some are focused on the attitudes of public authorities and others on those of religious institutions, but they share in common a twofold idea: that the French principle of *laïcité* has now opened itself to the issue of ‘recognition’ of the broader public of religion. Their contributions emphasize, however, that this recognition must be qualified by appropriate checks and balances: during the last decade, the expansion of Islam became a cause for concern to the public and, therefore, even while the Republic opened itself to religion, it enacted new policies for its containment that seem to revisit the more liberal aspects of the law of 1905.

The volume opens with a chapter by Jean Baubérot. He sets out the historical background of the French principle of *laïcité*. Before the Revolution of 1789, the kingdom of France was organized according to the principle of heteronomy. The ruler justified his election by divine right and had the authority to define the ‘common good’. Rejecting the temporal supremacy of the Roman pontiff, it was his right to base the legal order of the nation on the norms of a natural – divine law to ensure not only social order but also the safety of his subjects. This conception of political life led the state

to organize society as a religious entity, except during the three to four decades following the proclamation of the Edict of Nantes (in 1598) after the wars of religion between Protestants and Catholics. This is evident from the fact that after the Edict of Nantes was revoked in 1685 and the motto ‘One faith, one king, one law’ granted Catholicism the monopoly of religious expression, the regime of absolute monarchy prohibited public freedom of conscience, and implemented a policy that repressed heterodoxy until the first half of the eighteenth century.

This regime, Jean Baubérot explains, was abolished when the Revolution of 1789 introduced freedom of opinion in article 10 of the Declaration of the Rights of Man and the Citizen of 26 August 1789. Following the indecisiveness of this revolutionary decade, the Declaration was succeeded by the ‘Concordat system’ established by Napoleon. This system was based on the Concordat signed in 1801 by the French government and the Holy See; on the Organic Articles of 1802 adopted by the French state, which settled the question of Protestantism and specified the conditions for practising the Catholic religion; and on the decrees of 1808 which regulated the Jewish religion. This system remained in place until the law of separation of 1905 and was founded on three key principles. First, political sovereignty, namely the replacement of the principle of heteronomy by that of immanence, which sees the government of men as being based on their autonomy. Second, plurality of opinions, i.e. that citizens are no longer differentiated by their religious affiliation: they all have the same civil and political rights. Lastly, partnership between recognized religions and political regulation because, until the proponents of the Republic came to power in the 1880s, it was believed that social morals must be admittedly based, under state supervision, on the discourse and discipline of recognized religions. For those with an Indian background, it is important to note that this system did not acknowledge legal pluralism, and religious communities could not authoritatively impose their norms on their members.

In his chapter, Philippe Portier explores the principle of *laïcité* in the contemporary period. After the Concordat, the Third Republic (1875–1940) introduced a second threshold of laicization. The political generation that came to power in 1879 believed that the Concordat regime had made it possible for Catholicism to find a central place in the political order. This was viewed as being all the more problematic because the church, in the course of the nineteenth century, was becoming increasingly anti-modern in attitude and approach. Loyalty to the emancipating spirit of the French Enlightenment required a regime change, namely a differentiation between the institutions. The 1880s were marked in the main by a separation of the church and the educational institutions. The government led the laicization of state schools: it eliminated religious education from the curriculum and prohibited members of the clergy from becoming teachers. In the same spirit, it also sought to contain, but not prohibit, the expansion of private

Catholic schools. The 1900s were marked by the ‘great separation’ between the church and state. The law passed on 9 December 1905 repealed the Concordat system. The Republic, from then on, did not recognize or finance any religion. It is important to note, however, that the law of privatization was at the same time a law of liberalization: even though the churches had been under state scrutiny, they had now acquired new freedoms in terms of their internal organization and external orientation.

Since the 1960s and 1970s, this *laïcité* of separation has been more accepting of the principle of recognition. While maintaining the 1905 law, the Fifth Republic (established in 1958) introduced new norms and practises that shook the established boundaries between the private and public spheres. The government undertook the financing of religions and soon began consulting them before adopting certain public policies. In 1989 the Socialist government even accepted pupils wearing religious symbols in state schools, establishments. However, between 1990 and 2000, following growing fears of the threat of Islam amongst the public, the government emphasized the importance of bringing French society together around common norms, without retreating from its spirit of recognition that prevailed in the period immediately prior to this, particularly in relation to financing the activities of religious institutions. Several legal instruments were drafted to this end. Some had a restrictive tendency, such as the law of 15 March 2004 prohibiting the wearing of ‘ostentatious’ religious symbols in state schools, and the law of 10 October 2010 prohibiting any form of ‘full face covering’ (wearing the full veil) in any public spaces. Others laws were more constructive, including the regulations of the Ministry of Education which in 2011 and 2013 reintroduced the teaching of ‘secular morals’ (*morale laïque*) into the school curriculum. Also to be mentioned in this securitization movement is the law of 24 August 2021, which introduces greater state control over the constitution and functioning of religious associations.

Claire de Galembert, in her chapter, discusses the question of Islam. Since the 1970s and 1980s, French society, she explains, has experienced a two-fold phenomenon. In quantitative terms, the proportion of Muslims has markedly increased with the influx of immigrant populations settling in France and of an active policy of family reunification. Today, Muslims represent approximately 7% of the entire population. Some of these immigrant groups have begun reaffirming their cultural and religious identities in order to compensate for their social and economic marginalization in the course of the economic crisis of the past three decades. This reaffirmation has been accompanied by a mobilization in order to obtain greater rights and accommodation in matters concerning burial, employment, financing of places of worship, and choice of meals in cafeterias. This mobilization has also often spread to the legal domain. The shock of the fatwas proclaimed against Salman Rushdie and the increasing number of terrorist attacks in Paris, New York, London, and Madrid have increased the influence of the media and

their unvarying and stereotypical discourse about the community resulting in a general sense of distrust of Muslims. This sentiment is echoed in the following statistic: approximately 70% (according to an IFOP survey from October 2012) believe that Muslims ‘are not integrated in French society’.

How did political authorities react to this twofold trend? Claire de Galember explains that with respect to Islam, political authorities have ‘substituted a *laïcité* of ignorance with that of recognition’. Several factors illustrate this trend. First, in 2003 there was an initiative originally conceived at the end of the 1980s, namely the creation of a French Council of the Muslim Faith (CFCM) as an official interlocutor with the French state to represent Muslim aspirations and appeal for accommodation of their concerns. Then came an initiative by local government agencies to adopt a policy to support the construction of mosques. For a long time, Muslims have been forced to practise conspicuous ‘basement Islam’. Since the 1990s, local authorities have been more open to requests from Muslim associations for the construction of places of worship: they have not only granted building permits with much less resistance than before, but have also put at their disposal low-rent properties and have even offered direct subsidies, sometimes in contradiction to the usual interpretation of the law of 9 December 1905. The discourse of the French political class, with the exception of the far right, has been a plea for convergence: the accommodation of Islam around the ‘table of the Republic’ in the name of equality. However, this does not entail an opening with no boundaries. Following changes in French public opinion, which, as noted earlier, they partly shaped, government authorities have developed over the past decade a policy to monitor Islamic practices by pleading for the need to re-establish the idea of living together on the basis of shared values.

The emergence of a *laïcité* of recognition originated from several developments. It is the result of transformations in the French political regime which, since the 1970s, has generally dissociated itself from its Jacobin-inspired legal focus to become more open to the dynamics of the rule of law. It can also be attributed to the political crisis in Western societies: under the grip of a certain symbolic and material weakness, states have sought to reassert themselves by drawing on the resources offered by religious institutions in terms of emotional affiliations and a sense of meaning. Undoubtedly, this transformation of *laïcité* can also be partly traced to the transformation undergone by Catholicism. This is the focus of the analysis by Denis Pelletier, whose contribution initially takes us back to the nineteenth century. Breaking away from Napoleonic aspirations, the decades following the Revolution witnessed a consolidation of the church against the civilization that emerged during the French Enlightenment. The Syllabus proclaimed by Pope Pius IX in 1864 is the most significant illustration of this opposition: from rationalism to indifference, from freedom to progress, the Syllabus challenged all the foundations of the ‘new civilization’. Neither Leo XIII,

despite his ‘rallying’ behind the Republic’s Constitution, nor Pius X were to question it.

As Denis Pelletier explains, however, Catholics did not remain entrenched in the ethos of winning back lost ground. In the past few decades, they have gradually become reconciled to the principles of constitutional democracy. Two dynamics have become intertwined here. First, a ‘top-down’ dynamic: despite its integralist system, the papacy throughout the twentieth century took decisive measures. It condemned the French Action in 1926–1927 which associated an entire segment of French Catholicism with the monarchy and relegated the idea of a Catholic state to the Vatican II Council. The declarations by the French episcopate in 1945, at the beginning of the Fourth Republic, and in 1958, at the beginning of the Fifth Republic, in favour of a *laïcité* that is respectful to religious freedom, have also contributed to an image of the Catholic church becoming less out of touch with the times. However, it is important also to highlight a dynamic that has sprung from ‘the bottom-up’: the institution of the church has suffered a great number of desertions as a consequence of secularization, and even the most ardent Catholics have gradually been outpaced by the processes of individualization. They of course continue to express their views on life and family, including gay marriage, as we saw in 2012–2013. Nonetheless, Catholics act under the gaze of Catholic bishops who now view themselves as being ‘at the service of democracy’, within the axiological framework of political liberalism. This transformation has a clear impact: with the majority religion in retreat, it has become possible for *laïcité* to once again forge ties with the majority religion, as it is also doing through a halo effect with minority religions.

The increased pluralization of the French religious landscape and the process of Europeanization are ever more revealing of the complexity of the French principle of *laïcité*. Constructed in opposition to Catholicism, *laïcité* was gradually able to adapt itself with some difficulty to a religious diversity that was not easy to reduce to a plurality of faiths sharing in common a similar view of religion (as if different religions could be easily assimilated into the religious form of the Roman Catholic church). The principle of *laïcité* had to come to terms with the construction of Europe both at the level of the European Union (27 member states) and Council of Europe (47 member states); it was also forced to play down its historical and national characteristics in order to demonstrate that it was relevant in transnational legal and political categories that are specific to pluralist democracies. Facing the challenges of pluralization and Europeanization, it is important to note that it was thought best by some people, both on the right and on the left of the political spectrum, to respond by linking the principle of *laïcité* to French national identity, as if it was a characteristic of ‘French exceptionalism’. In terms of *laïcité*, the French-Indian comparison only reinforces this point of view; namely that, in reality, there are only exceptions because each

country is deeply marked both by its own political and religious history (including the way these histories have been intertwined) and by its current religious landscape. To these historical, sociological, and religious factors, it is necessary to add the truly political variables of political culture: the form the state takes and conceptions of state governance in each country. Nevertheless, recognizing from the outset the different national variations of *laïcité* does not in any way mean that there are not some clear general characteristics that override specific national configurations. In fact, it is by discussing these general principles that the notions of *laïcité* in different countries change by adapting themselves to the shifting social realities and to the international context.

As illustrated by the contribution by Claire de Galember, which was referred to above, the presence in France of a large Muslim minority has generated a '*laïcité* of recognition' that is anxious to integrate an Islam of France within the framework of the Republic. However, the strong media and political polarization over the question of Islam and Muslims in French society should not allow us forget the existence of two other religious minorities in France: the Jewish and the Protestant. The long and established presence of these two minorities in France, the significant role they have played in French history (often in a tragic and painful way), their acceptance of the principle of *laïcité* in school and of the separation of church and state in 1905, and the fact that they are well integrated in French society have to be taken into account when analysing the evolution of the French principle of *laïcité*. Indeed, without exaggerating all the various aspects of Islam in France (in particular the colonial past and Islamic terrorism in the twenty-first century), the Jewish and Protestant minorities question the French principle of *laïcité* but without ever being accused of adopting an anti-secularist perspective.

As Martine Cohen reminds us from the outset, since the French Revolution and its 'decree of emancipation', the Jews were integrated into French society through a denominational model that assimilated Judaism as a religion like any other, confined to the private sphere as 'a secondary identity' to the national identity. France in this way fell within the Jacobin system of assimilation through the privatization of differences. If this allowed the true assimilation of Jews in French society, it did not prevent the reaffirmation of Jewish identity, either during events that called into question the integration of Jews (the Dreyfus affair, the Vichy regime), or under the force of a 'Jewish awakening' prompted by Jews from Eastern Europe and followed by Jews from North Africa after the Algerian war (1954–1962). In the 1970s, this Jewish awakening flourished politically (through solidarity with Israel and the struggle against a negationism outlook) culturally but also at a religious level. According to Martine Cohen, we moved from a denominational model to an ethnically affirmative model of Jewish identity. The developments relating to Islam, the debate on multiculturalism, and even the effects

of the conflict in the Middle East in France have accentuated these transformations, which have strengthened ethnic perceptions of identity, causing amongst Muslims a manifestation of envy at the public recognition of Jewish identity. Besides stirring aspirations for more equitable treatment of different religious identities, these changes have also prompted a return to a stricter version of *laïcité*, to the point of calling into question the liberal practices of the 1905 law which had not previously been problematic. As no law can target Islamic traditions, the law of 15 March 2004 prohibiting the ostentatious manifestation of religious affiliation also prohibited the wearing of the *kippa* and Christian cross of a particular dimensions.

The case of the Protestant minority in France, studied here by Jean-Paul Willaime, is different but ties in with the case of the Jewish minority in many ways. Although the Protestant minority is well integrated in French society and has always been supportive of the principle of *laïcité* in school and the separation of 1905, after the hardening of the principle of *laïcité* on questions relating to Islam and, to a lesser degree, following questions about 'sects', Protestants did not hesitate to question the reputedly strict interpretations of *laïcité*. Because of the historically more favourable treatment of the Catholic religion, Protestants were all the more daring in their criticism of what they perceived as an inherently de facto inequality: even though Catholicism had rejected the law of separation in 1905, today it is its principal beneficiary (in terms of the maintenance and restoration of places of worship). Protestants, who had loyally agreed in 1905 to establish 'religious associations', have in consequence been negatively impacted. Therefore, their proposal to revisit certain points of the 1905 law, which encountered a great deal of resistance, reveals how much its perception as a sacred and symbolic legislative text has prevailed over its historical and technical components (which one can perceive by reading the technical aspects of the articles that comprise it).

All these questions are essentially about the ability of the principle of *laïcité* to accommodate religious pluralism and the assertive affirmation of religious identities in a secularized and pluralist French society. However, in addition to religious minorities which question the French principle of *laïcité* and urge its alteration, there is also the factor of Europeanization. France is deeply involved in the construction of Europe and European regulations, including the nationalist reactions that they can provoke, and this is a reality that it must take into consideration. Europe certainly respects the national arrangements of religion-state relations, and European Community law does not interfere in this domain, leaving it within the jurisdiction of the various member-states. However, as Jean-Paul Willaime notes in his contribution, the signs of Europeanization are visible. Regardless of whether European countries are predominantly Catholic, Protestant, Orthodox, bi-denominational, or multi-denominational, they face the same challenges: first, the growing religious and philosophical pluralization of populations

with an increasingly high percentage of people declaring themselves to be ‘without a religion’ or ‘atheist’ and; second, the importance of large Muslim minorities in many European countries (including, apart from France, Germany, Belgium, the Netherlands, the United Kingdom, Switzerland, and others). The French preoccupation with finding a place for Islam within the framework of *laïcité* is reflected in various other national initiatives that aim to take Islam into account in measures for the regulation of religion (for example, classes on Islam in schools and the creation of an Institute of Islamic theology in three universities in Germany). Countries that have traditionally had one national religion, such as Norway and Sweden, moved towards a separation of church and state in 2012 and 2000, respectively, while in Greece the mention of religious affiliation was removed from identity cards. In addition to this sociological Europeanization, there is a legal forum of Europeanization through the decisions of the European Court of Human Rights (ECHR) which, through Article 9 of the European Convention of Human Rights, ensures respect of the right of individual religious freedom in any country that is a signatory to this convention. The ECHR in Strasbourg protects people who have been the victims of religious discrimination by condemning states that have violated the Convention but in addition ensures that religious freedom does not exceed its rights by defending, not only freedom of expression (Article 10), but also the neutrality of the state and public institutions towards religion. The European conception of *laïcité* that emerges from the ECHR jurisprudence can be summarized in the following principles: (1) freedom of conscience, thought, religion, including the freedom to change one’s religion or not to have one; (2) equality of rights and responsibilities, and the prohibition of religious discrimination; and (3) the respective autonomy of the political and religious spheres without prohibiting cooperation between the two. Thus, what is emerging at the European level is a secular state and not a secularist state, i.e. a state that is not equated with any religion, nor identified with an atheistic philosophy promoting a non-religious conception of man and of the world.

In certain respects, one could say that Europeanization is beneficial to the French principle of *laïcité*, even if, according to certain politicians and intellectuals, this regularly generates friction. Europeanization is constructive because it forces the principle of *laïcité* to be more thorough and radical: more thorough by prompting it to permanently free itself from the implicit regime of recognized religions and from the remnants of a Catholic secularity (*Catho-laïcité*) in order to take into account the actual religious diversification of the French population; more radical by pushing it to more boldly free itself from any anti-religious tendencies and urging it to abandon a version of *laïcité* conceived as an alternative to religion, favouring instead a *laïcité* that forms a founding principle of pluralist democracies.

Notes

- 1 The term *laïcité* does not have a direct equivalent in English, other than perhaps the term ‘secularity’; it refers to the absence of religion from public life, thus affirming the non-religious character and religious neutrality of French public institutions, including the state and school system. Translated by Lina Molokotos-Liederman.
- 2 A chronology of political French history can be found in the Appendix of this book.