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IS LAÏCITÉ THE CIVIL RELIGION OF FRANCE?

BLANDINE CHELINI-PONT*

According to Robert Bellah, in his article, “Civil Religion in America,” civil religion is a combination of collective rituals that reveal a devotion to the unity of a nation and a national mythology made up of a diffusion of beliefs and representations that constitute the dominant mental attitudes of a society.¹ Civil religion has its own unique history and its own mythical or providential origins. It allows the population of a country to identify itself as such. It gives a national group the feeling of belonging, attachment, and a common sense of pride.² From this definition, Bellah considers civil religion a real religion, which he calls a “national faith.”³

The famous French intellectual Régis Debray believes that there is something more primitive and invincible beyond this faith, a state of very elaborate feelings of belonging that he calls *le sacré*, “the sacred.”⁴ According to Debray, the sacred “allows a group of

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1. See Robert N. Bellah, *Civil Religion in America*, DÆDALUS, Winter 1967, at 1, 1, reprinted in *AMERICAN CIVIL RELIGION* 21 (Russell E. Richey & Donald G. Jones eds., 1974).

2. In one article, French historian and sociologist Jean Baubérot stated that “civil religion covers a set of beliefs, symbols and institutionalized rites within a society that conceals its ultimate grounds from the social debate.” Jean Baubérot, *La laïcité en crise, une conquête toujours en devenir*, INFORMATIONS SOCIALES, Aug. 2006, at 48, 53–54. His colleague, Jean-Paul Willaime, says as follows:

Because societies are historical constructs, inevitably revisable and precarious, they need to refer their existence to a fantasy that allows them to lay a foundation and remember their history by various symbols and rituals. Through these symbols and rituals, they magnify their unity and enhance their existence as a distinct sociopolitical unit.

Jean-Paul Willaime, *Pour une sociologie transnationale de la laïcité*, ARCHIVES DE SCIENCES SOCIALES DES RELIGIONS, June 2009, at 201, 208 (translated by author from the French).

3. Bellah, *supra* note 1, at 1.

4. Élisabeth Lévy, *Régis Debray: le sacré repousse tout seul*, LE POINT (Fr.), Feb. 26, 2009, at 77–78, available at <http://www.lepoint.fr/actualites-chroniques/2009-02-26/regis-debray-le-sacre-repousse-tout-seul/989/0/320919>.

individuals to live as a whole.”⁵ Debray defines the sacred as the indispensable “imaginary coagulant” in every social order.⁶ Commenting on his latest book, *Le moment fraternité*,⁷ he explains that all human communities, atheist or not, have acts of sacrilege that are punishable by law. By using the anthropological term “invariant,” he claims as follows:

I can wander from Kazakhstan to the center of Paris. Yet even in a flat country you will find a high point, an enclosed part of land, a crypt or a tower. There is always a place of assembly, which creates a mythic reference point, event, hero or foundational myth that crystallizes an identity The technological and economic world produces convergence, but this divergence calls for a contrary convergence through a sort of thermostat of belonging. One must think again of the sacred things, the memories even in our own sphere Ethnologists do not exist only to study native Papuans.⁸

Do French people today consider that *laïcité* (the distinctly French concept of secularism) could be what identifies them the most? They have two ideas: first, *laïcité* is a common education through secular learning, and second, *laïcité* means the complete privatization of religious practices. They also have a common attitude regarding *laïcité*: they seek to defend it at all costs against any interior or exterior enemy. But, is that enough to define a French “civil religion?” When French people have evoked or invoked *laïcité* over the last twenty years, it is easy to show that in this contemporary period, *laïcité* fulfills the role of the French “civil religion.” But, this is merely a temporary coincidence. For instance, at least two other vivid terms and emotional concepts—French Republic and France itself—warm French hearts.

The French “civil religion” is much like a Russian nesting doll.⁹ In the United States, numerous researchers have worked on the notion of American “civil religion,” such as Sydney Mead, Russell

5. *Id.* (quoting Régis Debray). Similarly, Jean-Paul Willaime states as follows: Then I define the concept of civil religion, as collective piety phenomena, the beliefs and rituals system by whose each society sacralises its together-being and nourishes a liturgy to itself. It is a kind of no religious form of sacred, even if religious traditions can nurture this political sacred, that expresses a common feeling of unity. In my opinion, one observes collective piety phenomena in every society, because these phenomena reflect imaginary and affective dimensions of societies, organised in political communities.

Willaime, *supra* note 2, at 208.

6. Lévy, *supra* note 4 (quoting Régis Debray).

7. RÉGIS DEBRAY, *LE MOMENT FRATERNITÉ* (2009).

8. Lévy, *supra* note 4 (quoting Régis Debray).

9. A Russian nesting doll is a large doll that contains a number of smaller dolls inside, each one smaller than the one before.

E. Richey, Donald G. Jones, for the best known. These researchers debate on the great variety of American civil religion.¹⁰ Yet, when compared with France, American civil religion seems a true rock, “like a central nave of a cathedral with many surrounding chapels.”¹¹ Civil religions certainly have multiple entrances and evolve through time. French civil religion, if it exists, would have a difficult time revealing itself in great part because of its abrupt changing, its multiple references, and its difficulty in dealing with the religious dimension of its history and culture.¹² It appears complex, rich in roots of all kinds, and contradictory. It is like “a molecule with a lazy atom.”¹³ One must also take into account the fact that there could be a difference between *civic religion*, centered on devotion to political collectivity, and common (national) religion, a more diffuse universe of beliefs and ethical-religious representations.¹⁴

This Article proposes to discern these concepts in three different facets, juxtaposed against one another: (1) *Laïcité*, (2) the *République*, or “Republic,” and (3) France itself. It is like a presentation

10. Russell E. Richey and Donald G. Jones attempted to isolate five definitions of civil religion: folk religion, transcendent universal religion of nation, religious nationalism, democratic faith, and Protestant civic piety. See generally AMERICAN CIVIL RELIGION, *supra* note 1. Sydney Mead wrote the fourth part of this book. See generally Sydney Mead, *The Nation with the Soul of a Church*, in AMERICAN CIVIL RELIGION, *supra*, at 45. This became so famous in its own right that Mead expanded this into a separate book, SYDNEY MEAD, THE NATION WITH THE SOUL OF A CHURCH (1975). Contrary to Bellah, for whom civil religion is primarily to be analyzed, Mead refused to abstract American civil religion from its historical and theological moorings within America’s religious pluralism. See Don S. Ross, *The “Civil Religion” in America*, RELIGION IN LIFE, Spring 1975, at 29. Another author, Will Herberg, focused his presentation on the pronounced religious character of the American way of life, which could approximate true religious emotions and thus pervert authentic religious tradition. See Will Herberg, *America’s Civil Religion: What It Is, and Whence It Comes*, in AMERICAN CIVIL RELIGION 76 (Russell E. Richey & Donald G. Jones eds., 1990).

11. Lévy, *supra* note 4 (quoting Régis Debray).

12. Jean-Paul Willaime states:

Isn’t there in France, especially since the French Revolution, a true difficulty to symbolize national unity? In this exercise, public authorities seem to ignore how to deal with religious dimensions of our culture and history, notably because these dimensions have been related with conflicts. Then, and contrary to other countries where those dimensions, more or less integrated to national imaginary, evolve by the rhythm of secularization and reconstructions of religious landscape, in France, it is always a conflicting topic. France has a complex and conflicted relation to the religious dimensions of its history and culture.

Willaime, *supra* note 2, at 210. But see generally Jean-Paul Willaime, *La religion civile à la française et ses métamorphoses*, 40 SOC. COMPASS 571 (1993).

13. Lévy, *supra* note 4 (quoting Régis Debray). These terms are the product of Régis Debray’s imagination describing the contradictions of French *laïcité*.

14. Willaime, *supra* note 2, at 209.

of the French trinity, a small secular allusion to the Catholic heritage of France.

I. LAÏCITÉ AS CONTEMPORARY CIVIL RELIGION

Laïcité, as far as this Article is concerned, is the first and most recent level of French civil religion. It is easy to identify its make-up, to identify its founding heroes, texts, symbols, holidays, commemorations, and rituals. *Laïcité* was dogmatized in a keynote speech by Former President Jacques Chirac in December 2003.¹⁵ But in a not-so-distant past, the 1970s, *laïcité* was not at all an object of such unanimity, and the difference of opinion regarding it was the object of a true political war in which believing secularists, called “*croyants laïcs*,” had neither the last word nor sufficient legitimacy for their conviction to represent the cornerstone of French identity.¹⁶ They were a part of the political scene. Going even further back, the word did not even exist. If the habit was acquired, even among the most eminent intellectuals back to the philosophers of the French Enlightenment and the French Revolution, there is no trace in the writings and thoughts of the time of a developed and enforced *pacte laïc*, or “lay pact.”¹⁷ The term appeared for the first time in the 1880s.¹⁸

15. In this speech, delivered on December 17, 2003, former President Jacques Chirac stated as follows:

Laïcité is inscribed in our traditions. It is at the heart of our republican identity It is with faith in the principle of laïcité, the cornerstone of the Republic, the beacon of our common values of respect, tolerance, and dialogue, that I call upon all French men and women to unite These are the values which make France.

Jacques Chirac, President of France, Discours relatif au respect du principe de laïcité dans la république [Speech on Respecting the Principle of Secularism in the Republic] (Dec. 17, 2003) (translated by author from the French).

16. See generally HENRI PEÑA-RUIZ, HISTOIRE DE LA LAÏCITÉ: GENÈSE D'UN IDÉAL (2005); Jacques Sutter, *La laïcité comme cohabitation des différences*, in L'HÉRITAGE CHRÉTIEN EN DISGRÂCE 285 (Guy Michelat, Julien Potel & Jacques Sutter eds., 2003); Martine Barthélémy & Guy Michelat, *Dimension de la laïcité dans la France d'aujourd'hui*, 57 REVUE FRANÇAISE DE SCIENCE POLITIQUE 649 (2007).

17. This supports Jean Baubérot's point in JEAN BAUBÉROT, LAÏCITÉ 1905–2005: ENTRE PASSION ET RAISON (2004). See generally JACQUELINE LALOUETTE, LA SÉPARATION DES ÉGLISES ET DE L'ÉTAT: GENÈS ET DÉVELOPPEMENT D'UNE IDÉE 1789–1905 (2005); EMILE POULAT, NOTRE LAÏCITÉ PUBLIQUE: LA FRANCE EST UNE RÉPUBLIQUE LAÏQUE (2003).

18. The term appeared under the pen of Ferdinand Buisson, Head of the Primary Education Department at the Ministry of Public Instruction from 1878 to 1896. See generally MIREILLE GUEISSAZ & FERDINAND BUISSON, LA FOI LAÏQUE: EXTRAITS DE DISCOURS ET D'ÉCRITS, 1878–1944 (2007).

Laïcité, for legal authors and sociologists, could be a common term for designating a process of secularization¹⁹ that is both natural and voluntary. This secularization is one of a detachment of spiritual authority from the state, its institutions, and from society itself. It comprises, therefore, several phenomena of disengagement, including political, social, moral, and even spiritual disengagement. This secularization is entirely swallowed up by constitutional and legal evolutions.

This process of secularization is also presented as the constitutional foundation of the French political system, serving as the most reasonable means for assuring the four principles that regulate religion in democracy: (i) absence of any official state religion (which includes autonomy and separation from the state, civil law disassociated from religious norms, and a non-religious conception of public life and the citizen); (ii) individual freedom of conscience of belief and religion; (iii) axiomatic neutrality of the state and organizational autonomy of churches and religions; and (iv) equality of religions and beliefs for individuals and for collectivity (this includes disassociation of one's identity as a citizen from religious identity). Presented in this way, French *laïcité* is nothing extraordinary because one may find these principles in many other countries.²⁰

Yet, it is easy to see that this term in France today has a connotation that is not at all "*laïque*" but is closer to the sacred. The historian Jean Baubérot acknowledges that French *laïcité* mixes constitutional principles, secularization, and civil religion: "Con-

19. The fact that *laïcité* is the word to designate French secularization's phenomenon creates debate among French sociologists, notably Jean Baubérot. See generally Jean Baubérot, *Que sais-je: laïcité, laïcisation, sécularisation*, in *PLURALISME RELIGIEUX ET LAICITÉS DANS L'UNION EUROPÉENNE* 9 (Alaine Dierkens ed., 1994). One of Baubérot's debates about the sociology of *laïcité* is with Jean-Paul Willaime. See Jean Baubérot, *Pour une sociologie interculturelle et historique de la laïcité*, *ARCHIVES DE SCIENCES SOCIALES DES RELIGIONS*, June 2009, at 183. Also illuminative are the positions of Micheline Milot and Roberto Blancarte in the same volume. See Micheline Milot, *Introduction: les Amériques et la laïcité*, *ARCHIVES DE SCIENCES SOCIALES DES RELIGIONS*, June 2009, at 9; Roberto Blancarte, *Laïcité au Mexique et en Amérique Latine*, *ARCHIVES DE SCIENCES SOCIALES DES RELIGIONS*, June 2009, at 17. These three authors distinguish *secularization* from *laïcisation*. Secularization is latent, an involuntary effect of social dynamics that change societal representations of the world and behaviors in political life. *Laïcisation* is a voluntary process of political, juridical, and institutional regulation of religion, beliefs, and the entire symbolic world, with its transactions and its explicit conflicts. *Laïcisation* would better correspond to the term "secularism" or "secular state." French *laïcité* would encompass both phenomena of secularization and *laïcisation*. See Jean Baubérot, *Two Thresholds of Laïcization*, in *SECULARISM AND ITS CRITICS* 94–136 (Rajeev Bhargava ed., 1999).

20. See generally Jean Baubérot, *Transferts culturels et identité nationale dans la laïcité française* [*Cultural Transfer and National Identity in French Laicity*], 218 *DIOGENES* 17 (2007).

crete *laïcité* mixes laicization and 'civil religion,'” he writes,²¹ a notion that Jeremy Gunn developed in his article “French Secularism as Utopia and Myth.”²² In fact, when French people today use the word *laïcité*, they do not have the image of good and worthy constitutional principles of a democratic nation, but of a powerful founding myth, one of a liberating victory of reason against religion that brought about the birth of the rights of man. And with this founding myth are told success stories of liberation, from secular school to sexual equality and free access to culture.

A. *Revolutionary Emancipation*

The revolutionary emancipation's myth is well illustrated by a famous text written by Marquis de Condorcet:

A moment will therefore come to pass in which the sun will only shine upon free men, recognizing no other master than their own reason. Where tyrants, or slaves, priests and their stupid and hypocritical instruments, will only exist in stories and theatres. One will only have time to pity their victims and dupes. To discuss with horror their excess, in a useful vigilance. To decide how to recognize and suppress, under the weight of reason, the first seeds of superstition and tyranny, if ever they dared to reappear.²³

Speaking of the *Declaration des droits de l'homme*,²⁴ “declaration of the rights of man,” which would not be “tablets from heaven,” the mathematician, philosopher, and revolutionary Marquis de Condorcet could be considered a father of French secularism. He is abundantly cited. He represents the roots of a heroic time, that of the Enlightenment and the French Revolution. Drawing upon a well-established historiographical tradition of an upheaval without precedent, it became certain that the French *Lumières*²⁵ actively prepared the irreversible and liberating rupture of the Revolution, whose first fruits can be dated with the publication of the first volume of *l'Encyclopédie* in 1751.²⁶

21. Baubérot, *supra* note 2, at 54.

22. See generally T. Jeremy Gunn, *French Secularism as Utopia and Myth*, 42 HOUS. L. REV. 81 (2005).

23. GUY GAUTIER & CLAUDE NICOLET, *LA LAÏCITÉ EN MÉMOIRE* 26 (1985) (quoting MARQUIS DE CONDORCET, *RAPPORT ET PROJET DE DÉCRET SUR L'ORGANISATION GÉNÉRALE DE L'INSTRUCTION PUBLIQUE* (1792)).

24. DÉCLARATION DES DROITS DE L'HOMME ET DU CITOYEN DE 1789 [DECLARATION OF THE RIGHTS OF MAN AND OF THE CITIZEN OF 1789] (1789) [hereinafter DÉCLARATION], available at <http://www.assemblee-nationale.fr/histoire/dudh/1789.asp>.

25. The term “*Lumières*” refers to the philosophers of the Enlightenment.

26. *L'Encyclopédie* is a monumental work prepared under the leadership of the philosopher Diderot and dedicated to sciences, arts, and literature. It is composed of thirty-five

Laïcité is not the ripe fruit of a precedential evolution. It is the beginning of a new time. It is an intuition of French philosophers who thought of the emancipation of humanity by exercising atheistic reason.²⁷ It is a voluntary rupture, an act of creation, that the French owe to Montesquieu, Voltaire, d'Holbach, and other great philosophers, themselves contemporary of a philosophical edifice of great importance, that of Immanuel Kant. In response to the observation that religion is the most powerful instrument of domination, these philosophers said that the free man cannot accept being dominated by a religion that imposes itself on him.²⁸ There is in the secular movement the certainty that secularism has been a victorious combat in a great struggle against a Catholic religious system, associated with an absolutist political system. Secularism had to be defended. As the revolutionaries defended themselves to change France for, secularism is the space of dearly captured freedom of conscience. Secularism is like the French "promised land."²⁹ The Revolution is the foundational act of "liberation," of this Exodus from Egypt in which the King of France plays the role of Pharaoh. It permits the creation of a citizen order, where religion is not a condition of belonging, where equality of the law touches all people, and the political authority no longer emanates from God.

Never mind that the historians explain that well before the Revolution, the Gallican French State had long claimed its inde-

volumes, with the first printed in 1751 and the last in 1772. Often censored, those volumes were intended to distill "enlightened" ideas on politics and religion. See André Alexis, *Most Enlightening: L'Encyclopédie, Edited by Denis Diderot and Jean d'Alembert: André Alexis Makes the Case*, GLOBE & MAIL (Can.), Dec. 13, 2008, at D18.

27. See generally *Le matérialisme des Lumières*, 24 DIX-HUITIÈME SIÈCLE 615 (1992).

28. Henri Peña-Ruiz devotes several pages of his *Histoire de la laïcité* to the "critics of religious oppression," including extracts from the *Édit de Nantes* (1598 Toleration Act for Protestants), Kant's *La religion dans les limites de la simple raison*, Montesquieu's *L'Esprit des lois*, and Voltaire's *Traité de la tolérance*. PEÑA-RUIZ, *supra* note 16, at 21–47; cf. JEAN-PAUL SCOT, *L'ÉTAT CHEZ LUI, L'ÉGLISE CHEZ ELLE: COMPRENDRE LA LOI DE 1905*, at 26–33 (2005) (providing a historiographical view).

29. Explaining the contents of the contemporary *laïcité*, Jacques Sutter writes the following:

La laïcité is devoted to defending the autonomy of reason against tradition, liberty against authority, the rights of man and of the citizen against society founded on divine law and the power of one. Requiring a total religious or philosophical abstention, it represents "in its own foundation a vision of the world and the Man, out of reference to any transcendence." It simultaneously poses a principle of liberty and a principle of equality. Liberty is fundamentally that of conscience which is not submitted to any obligatory "credo," any established speech which would escape critics of reason.

Barthélémy, *supra* note 16, at 649 (quoting Sutter, *supra* note 16, at 290) (translated by author from the French).

pendence and sovereignty.³⁰ Never mind that the historians recall the history of the revolutionary civil religion set forth, according to the propositions of Rousseau in the social contract,³¹ behind the cult of the Supreme Being blessing the nation, to which the first revolutionary Republic submitted the population. Never mind that this attempt degenerated in persecution from the Catholic Church, which refused the civil constitution of the clergy and the different sermons of allegiance to the Nation. Intolerance, in the secular myth, is on the side of the religious and monarchical reaction, not on the side of the triumphant revolution over the ancient order, because despite its failures, the Revolution allowed the end of a theocratic and unjust world. This is why in 1989, the bicentennial of the French Revolution was celebrated with great splendor as well as why the traditional July 14 parade was doubled at night by an immense and chic carnival organized on the Champs Élysées under the supervision of Jean-Paul Goude, a famous French photographer and film maker.

Never mind that the *Déclaration des droits de l'homme*³² was proclaimed under the aegis of the Supreme Being, or that the idea was proposed by Lafayette, who had returned from the United States. Never mind that this declaration was not applied in its entirety since its proclamation, or that it would be removed from constitutional texts from different French political regimes until 1946. This declaration was put forth in August 1789, and it assures without forced juridical analysis in the minds of French people today both liberty despite all powers and arbitraries, and equality despite all the privileges of birth, health, race, religion, education, and money.

Historian Max Gallo also gives a very enlightening insight into the current social situation of the French by readdressing the belief of equality:

One of our national characteristics is an extreme susceptibility to inequality . . . There is something sacred in every man. We have, in our values, a rejection of recognized inequality. The sensation of being inferior is difficult to accept. Is equality not the key word of our national motto? From Guadeloupe to a uni-

30. See BENOÎT MÉLY, *DE LA SÉPARATION DES ÉGLISES ET DE L'ÉCOLE MISE EN PERSPECTIVE HISTORIQUE: ALLEMAGNE, FRANCE, GRANDE-BRETAGNE, ITALIE 1789-1914* (2004); Philippe Nélidoff, *La laïcité avant la laïcité: recherche sur les origines historiques et juridiques d'un principe à géométrie variable*, in REGARDS CROISÉS SUR LA LOI DE SÉPARATION DES ÉGLISES ET DE L'ÉTAT 189-214 (2005).

31. For more about Jean-Jacques Rousseau's conception of civil religion, see JEAN BAUBÉROT, *LES LAÏCITÉS DANS LE MONDE* 24-28 (2d ed. 2009).

32. See DÉCLARATION, *supra* note 24.

versity president, passing by a professor or a working man, one hears the same words: “We are looked down upon! We want respect!”³³

All French political discourse is founded on this opposition between empty stomachs and full stomachs, which are considered to be rotting stomachs.³⁴ It is the principal reason why the current financial crisis and its deep immoral roots carry an extremely violent echo in France today.

B. *Secular Public School*

The existence of the public secular school is a second gem of the secular legend. Despite the deep crises from which it suffers, today this institution remains the living symbol and the heart of the imaginary secular French individual, a symbol so powerful that the Ministry of Education is at the top of the French State’s budget list. The weight of the education system is not only a financial matter, but also a mental one. The French live according to the rhythm of the school calendar, which has replaced the traditional, religious calendar. The aggregate of economic activity is regulated by summer vacations from school (July to August) and four periods of vacation that divide the year (November, December, February, April). The population lives according to the rhythm of the back-to-school day (a day of celebration for families) and the end-of-year exam period. The standardized national high school exam, called the Baccalaureat, and notably the philosophy examination is always the focus of very attentive media. The education system is, *par excellence*, the point of socialization for all generations, and its authority over the collective conscience remains strong. The notion of *laïcité* is largely tied to the school system, to such a degree, states Yves Bruley, that “public opinion is often tempted to conflate” the two.³⁵

This public secular school is the result of a long academic battle, which scholars can easily trace. The idea that the state must organize a civil system of education for the population is older than the laws of the 1880s. The Guizot law (1833)³⁶ and this of Falloux

33. Saïd Mahrane, *Max Gallo: Il suffit de quelques jours pour que la barbarie rejaillisse*, LE POINT (Fr.), Feb. 26, 2009, available at <http://www.lepoint.fr/actualites-politique/2009-02-26/max-gallo-il-suffit-de-quelques-jours-pour-que-la-barbarie/917/0/320864>.

34. *See id.*

35. YVES BRULEY, HISTOIRE DE LA LAÏCITÉ À LA FRANÇAISE 154 (2005).

36. François Guizot (1787–1874) was a historian and a famous politician. He became Minister of Public Instruction during the first government of King Louis-Philippe’s liberal regime and eventually became President of the Council in 1847. His education law

(1850)³⁷ had constructed the base for the public primary and secondary system, put into place by the presence of the bishop in the local academic council.³⁸ The education laws proposed by Republican Minister of Education Jules Ferry stripped the Catholic Church of this right of control, made attendance mandatory for male and female children from seven to thirteen years old, organized the free nature of public education, and erased and forbade religious education—the apprenticeship of Catholic truth—from the academic program in primary schools.³⁹ One vacation day during the week, outside of school, was granted for this sort of activity. What remains in the collective memory from all of these events? There is a “spirit” in the public school that is an exceptional one, a secular spirit. But, what does this spirit say? (1) Before the Jules Ferry laws, French children did not have access to education, but the new school system welcomed all children without discrimination⁴⁰; and (2) public school does not profess any religion—actually, this is the condition of its existence and one must remain vigilant and wary of all religious hands attempting to toy with the system (Muslim today, Catholic in yesteryear).

In fact, the Catholic Church largely combated and criticized its exclusion, fought equally during the decade that preceded the Ferry laws, in order to conserve or augment its influence on the educational system. The academic war was a reality in France, dividing itself into two camps, and was simultaneously the engine of anti-clericalism for the adepts of the new order and also for the clericalism for the adepts of the true order, both Catholic and monarchist.⁴¹

obliged cities of more than 500 inhabitants to open a public school for boys. Thanks to this law, enrollment in primary schools in France increased from 10,000 to 23,000 in fifteen years. *See, e.g.*, ASPECTS OF EUROPEAN CULTURAL DIVERSITY 64–65 (Monica Shelley & Margaret Winck eds., rev. ed. 1995).

37. Alfred de Falloux (1811–86) was Minister of Public Instruction under the second French Republic. The law he initiated remained famous because of his insistence on the freedom of education, permitting the Catholic Church to increase his own school system. Falloux also permitted the control of the public school system by the Catholic Church. *See, e.g.*, OSAMA ABI-MERSHED, APOSTLES OF MODERNITY: SAINT-SIMONIANS AND THE CIVILIZING MISSION IN ALGERIA 144–46 (2010).

38. *See* FRANÇOISE MAYEUR, HISTOIRE GÉNÉRALE DE L'ENSEIGNEMENT ET DE L'ÉDUCATION EN FRANCE: TOME 3, 1789–1930, at 314–37 (2004).

39. *See generally* JEAN COMBES, HISTOIRE DE L'ÉCOLE PRIMAIRE ÉLÉMENTAIRE EN FRANCE (1997).

40. “Without discrimination” is the more contemporary term, the older one being “without inequality.” The idea that before the Ferry’s laws, French children had no access to education is largely wrong, of course.

41. *See* RENÉ RÉMOND, L'ANTICLÉRICALISME EN FRANCE DE 1815 À NOS JOURS (1999). Jean Sevillea recently wrote a book retracing the history of these events starting from the

The construct in the French imagination of a struggle against the clerical enemy stems from this memory. The imaginary construct no longer concerns Catholics. Ever since the Debré law of 1959,⁴² the academic quarrel has mostly subsided in France. Catholic schools have been integrated into the service of public education inasmuch as they commit to giving the same general curriculum and to respecting students' right of free conscience, which is to say, their right not to take religious classes. In exchange, the state covers the salaries of the free schools' teachers.

1. The profession of secular faith

In French memory, the Jules Ferry laws remained the supreme secular laws.⁴³ There was, in the system reworked by these public school laws, a mobilization to instill the world views of secular philosophers, of which the French today believe they are the direct carriers, inasmuch that this vision has disappeared and the goals of the school system today have completely changed. But, even if the secular philosophy has disappeared in its ideological construction, even if the challenges of the public system are different, some certainties, alive and well, carry the vestiges of its message.

Secular theory, as an explanatory theory of history and a mobilizing ideology, is the work of French philosopher Ferdinand Buis-

Catholic memory. JEAN SEVILLA, *QUAND LES CATHOLIQUES ÉTAIENT HORS-LA-LOI* (2005). Jacqueline Lalouette has also written extensively on these issues. See JACQUELINE LALOUETTE, *LA LIBRE-PENSÉE EN FRANCE 1848–1940* (2001); JACQUELINE LALOUETTE, *LA RÉPUBLIQUE ANTICLÉRICALE: XIXE–XXE SIÈCLES* (2002); Jacqueline Lalouette, *Anticléricalisme et laïcité*, in 2 JEAN-JACQUES BECKER & GILLES CANDAR, *XXE SIÈCLE: À L'ÉPREUVE DE L'HISTOIRE*, 646–65 (2004).

42. Michel Debré was the first Prime Minister of the fifth French Republic. With the Constitution itself, his most remarkable achievement was the Loi du 3 décembre 1959 [Law of Dec. 3, 1959], *JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.]* [OFFICIAL GAZETTE OF FRANCE].

43. JEAN-LOUIS DEBRÉ, PRESIDENT OF THE FRENCH ASSEMBLY, *RAPPORT SUR LA QUESTION DU PORT DE SIGNES RELIGIEUX À L'ÉCOLE* (2003), available at http://www.assemblee-nationale.fr/12/rapports/r1275-t1.asp#P231_21238 (see paragraph on *La laïcisation de l'école publique*). There is also a secular legend concerning Minister Jules Ferry. Even if Jules Ferry insisted on the necessity to preserve free-from-state schools to avoid an only public system ruled by state ideology, this famous Great man remains the "Secular Father."

son.⁴⁴ Buisson invented the term “*laïcité*.”⁴⁵ His point of departure is a historical analysis to add to the long list of the nineteenth century philosophies on History, prompted by Hegelian thought. In those philosophies, human societies would have incorporated some theocratic systems at their beginning. But progressively, over the course of the centuries, the historic process carried the different institutions that emanate from social life (political, military, judicial, medical, academic) to free themselves from the power and influence of religion and to regain their autonomy.

This process, enacted by the “slow work of the centuries”⁴⁶ is found in different societies. When the process reaches a certain threshold, it is possible to discuss secularism. According to Buisson, this threshold was reached in France by 1789, with the Declaration of the Rights of Man and the political events that accompanied it.⁴⁷ At that time, there was a replacement of the divine sovereign right by the principle of the people’s sovereignty, the proclamation of free conscience and of equal rights by the dissociation between the citizenry and the professed religion.⁴⁸ But, the French Revolution was an ephemeral period, because it was incomplete without the secular age. True secularism is the threshold that the Republicans of the 1880s had to attain. The historic role of the Republicans was to establish secularism in French society and principally to cure schoolchildren of contaminable religion. To break the influence of faith and the social structures of the church is a scientific objective in the philosophy of Buisson, to the

44. See Pierre Nora, *Le dictionnaire de pédagogie de Ferdinand Buisson, cathédrale de l'école primaire*, in *LES LIEUX DE MÉMOIRE* 327, 327–47 (Pierre Nora ed., Gallimard 1992); Jean-Paul Willaime, *De la sacralisation de la France, Lieux de mémoire et imaginaire national*, *ARCHIVES DES SCIENCES SOCIALES DES RELIGIONS*, Sept. 1988, at 125. See generally GUEISSAZ & BUISSON, *supra* note 18. A three-volume collection directed and edited by the famous French historian Pierre Nora, *Les lieux de mémoire*, is useful for understanding what Jean-Paul Willaime called France’s sacralisation. Three reorganized parts of this collective work have been edited by the University of Chicago Press. 1 *RETHINKING FRANCE: THE STATE* (Pierre Nora ed., 2001); 2 *RETHINKING FRANCE: SPACE* (Pierre Nora ed., 2006); 3 *RETHINKING FRANCE: LEGACIES* (Pierre Nora ed., 2009).

45. Buisson’s most famous book, the *Dictionnaire de pédagogie et d’instruction primaire*, is available online. Of particular note is his entry on *Laïcité*. See FERDINAND BUISSON, *Laïcité*, in *DICTIONNAIRE DE PÉDAGOGIE ET D’INSTRUCTION PRIMAIRE* (1911), available at <http://www.inrp.fr/edition-electronique/lodel/dictionnaire-ferdinand-buisson/document.php?id=3003>.

46. Baubérot, *supra* note 20, at 18.

47. *Id.* at 19.

48. *Id.*

end of reaching the ideal age where society altogether attains freedom of conscience, material progress, and prosperity.⁴⁹

2. A secular moral code

As a contemporary trace of the period of secular laws and of this long period where the schoolteachers were trained and charged to transmit the secular faith, there remains a social project that quests for its betterment, that refuses to regress, that thinks that progress is always possible and collective. In this project, the question of religion is overlooked and even dangerous. The question of religion carries the risk of shackling political progress, molding the collective mind to the freedom of thought, and separating citizens from the project of national progress, if it is taken into account at school, which means out of the private sphere.

According to historian Jean Bauberot, the strong reticence in the public sector towards religion comes from the proper pedagogical choice of Jules Ferry. Dutch, U.S., and British solutions for public education, in which one finds a common Christianity taught, held back the attention of Ferry's Administration, because of their relationship of proximity (dominance of Christianity) and distance (importance, in these countries, of Protestant culture) with the French situation. "It is precisely the different role of "lay" [*laïc*] that creates this distance: in a country impregnated by Protestant culture, the secular possesses a certain legitimacy to interpret the Bible after its own manner. The morality taught by the secular institutions of the Protestant countries can therefore base itself on a deconfessionalized Christianity, with a Biblical base. In France, a religious morality is truly "clerical" because the school master is secular [*laïc*] without any religious legitimacy."⁵⁰ It is necessary, therefore, to think about the educational system, notably that of the common morality, without any reference to religion.

The solution found in France was the establishment of a "moral secularism," not only "a-denominational" but also an "a-religious" one, which accentuated secularism as a proper view, by the reports of other countries.⁵¹ This moral became immersed more so with the German philosopher Immanuel Kant than it did with the

49. See generally DICTIONNAIRE DE PÉDAGOGIE ET D'INSTRUCTION PRIMAIRE, *supra* note 45. For the search for a secular faith, see generally PIERRE OGNIER, *UNE ÉCOLE SANS DIEU? 1880–1895: L'INVENTION D'UNE MORALE LAÏQUE SOUS LA ILLÈME RÉPUBLIQUE* (2008).

50. Bauberot, *supra* note 20, at 19.

51. *Id.*; see also Pierre Colin, *L'enseignement républicain de la morale à la fin du XIXe siècle*, LE SUPPLÉMENT, Apr. 1988, at 83.

French Enlightenment or Auguste Comte's positivism.⁵² In practice, it differed from Christian morals in founding its principles on the practice of reason. It is from this aspect that the teaching-philosophers of the Third Republic consecrated their efforts in order to apply "morals as science" resulting from Kantianism.⁵³ Yet, this teaching method was rather close to Catholic morals (respect your elders, respect your parents, be giving, honest, and so forth) so that the French who were still 70 percent rural and Catholic did not take this as an unsupportable attack on their convictions.⁵⁴ The French agreed to keep religious education outside the school, and the Catholic education of the children remained majoritarian, except for proletarian classes until the 1960s.

3. Scientific progress and social improvement

With the education laws, the autonomy of secular institutions of socialization departed from the belief in progress developing.⁵⁵ Care for the body also began to escape from the clutches of the Catholic Church.⁵⁶ The body became a rationalized object of citizenship and "medicine" became a hegemonic site of hygiene and secularism, a space of authority, for it reconciled this idea that technical and scientific progress, in this case medical, engenders social and moral progress. Access to school offered hope for social ascension. Medicine became the science that comforts and saves.⁵⁷

With medicine, the space of public services widened. In the mid-twentieth century, a new space became "public" and progressive, too: that space was the sphere of culture, with the creation of a Minister of Culture in 1959, a true symbolic and financial institu-

52. See Jean Bonnet, *Kant Instituteur de la République (1795-1904): Genèse et formes du kantisme dans la construction de la synthèse républicaine* 111-78 (2006) (unpublished Ph.D. dissertation, École Pratique des Hautes Études), available at <http://tel.archives-ouvertes.fr/tel-00275209/en>.

53. ALBERT BAYET, *LA MORALE LAÏQUE ET SES ADVERSAIRES* (3d ed. 1925). Bayet, future president of the Ligue de l'enseignement from 1949-59, was inspired by Durkheim's sociology and in 1925 proclaimed, "The true laïcité, it's Science." *Id.* Bayet developed a more peaceful and less scientific view of *laïcité* after the Second World War.

54. See PHILIPPE BOUTRY ET AL., *DU ROI TRÈS CHRÉTIEN À LA LAÏCITÉ RÉPUBLICAINE: XVIIIÈ-XIXÈ SIÈCLE* 323-488 (Jacques Le Goff & René Rédmond eds., 2001).

55. See generally Jean Bauberot, *Medecine, ecole: laïcisation et sécularisation*, in *LA LAÏCITÉ ENTRE PASSION ET RAISON* (2004).

56. See *id.*; CLAUDE NICOLET, *L'IDÉE RÉPUBLICAINE EN FRANCE (1789-1924)* 310-11 (1982).

57. See Bauberot, *supra* note 55.

tion of “redistribution” of heritage and of artistic creation.⁵⁸ This Minister had been preceded in the 1930s by attempts by Houses of Culture and other popular Theaters that saw great success.⁵⁹ If it were a visceral putting down of roots among the French since the distant period of public schools, it has certainly been one of learning, culture, art, and medicine. Those matters are a common good and everyone has a right to them. The access to culture, art, and medicine by institutionalizing, promoting, and making these things free, is a result of secular thought in France.

4. Promotion of girls and equality of the sexes

The movement towards secularism also included allowing girls a broader and more general education because until this point, many of them received a limited education compared to boys.⁶⁰ This was not yet the period of political equality (women did not have the right to vote in France before 1944), but the effort to provide a general and broad education in public primary schools was immediately given to children of both sexes, with the same content.⁶¹ Jules Ferry was likewise at the origin of the creation of the first public secondary schools for girls.⁶² Between 1894 and 1899, close to 8500 courses for educating girls were opened with female teachers, they themselves having been taught in normal

58. See Ministère de la Culture et de la Communication, *Les origines*, CINQUANTENAIRE DU MINISTÈRE DE LA CULTURE 1959–2009, <http://www.50ans.culture.fr/50ans/patrimoine/> 1 (last visited Jan. 14, 2011).

59. See generally PASCAL ORY, *LA BELLE ILLUSION: CULTURE ET POLITIQUE SOUS LE SIGNE DU FRONT POPULAIRE, 1935–1938* (1994); PASCAL ORY, *THÉÂTRE CITOYEN* (1995).

60. MICHELLE ZANCARINI-FOURNEL ET AL., *LE POUVOIR DU GENRE: LAÏCITÉS ET RELIGIONS 1905–2005*, at 33–159 (Florence Rochefort ed., 2007). The first part of this collective work rethinks the 1860–1914 era as a “time of laïcisation” under the unheard-of bias of gender, which permits showing a “complex process of decompression and reconstruction of religious influence on the society.” The actors of secular education (men) wanted to eradicate young women from religious congregations, but encountered broad Catholic and female resistance. In this context, a debate existed among secular ranks on the priority of female secular education. The Republic was resistant to feminine presence in the public sphere because of women’s submission to the clerical enemy, and the Republic conceived feminist education to be republican marriage. Therefore, secular movements like La Ligue de l’Enseignement opened to feminist militancy, which was crucial to the progress of women’s rights. Around 1910, the debate was concentrated on secular morals and secular approaches to sexual education. See generally FRANÇOISE LELIÈVRE & CLAUDE LELIÈVRE, *HISTOIRE DE LA SCOLARISATION DES FILLES* (1991).

61. FRANÇOISE MAYEUR, *L’ÉDUCATION DES FILLES EN FRANCE AU XIXE SIÈCLE* (1979); FRANÇOISE MAYEUR, *L’ENSEIGNEMENT SECONDAIRE DES JEUNES FILLES SOUS LA TROISIÈME RÉPUBLIQUE* (1977) [hereinafter MAYEUR, *L’ENSEIGNEMENT*].

62. Loi du 21 décembre 1880 [Law of Dec. 21, 1880], *JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE* [J.O.] [OFFICIAL GAZETTE OF FRANCE], Dec. 22, 1880, available at <http://www.senat.fr/evenement/archives/D42/dec1880.pdf> (the so-called Law Camille Sée).

schools for girls, the creation of which had become obligatory in each department by law on August 9, 1879.⁶³ The role of women in primary teaching nonetheless remained modest: in 1900, they represented less than 20 percent of teachers.⁶⁴ It was only in 1924, with the decree of "Léon Bérard," that girls received the same secondary education as boys and were permitted to pass the Baccalauréat exam like young men did.⁶⁵ Thus, young women in high schools finally had the opportunity to take the Baccalauréat exam, whereas before they had only been able to present themselves as coming from outside the system as *candidates libres*.⁶⁶ The content of education from then on was the same for both sexes, though they remained separated.⁶⁷ Yet, two years prior, the proclamation (circulaire) of October 23, 1922,⁶⁸ had allowed candidates in the second half of their high school education to take classes in the boys' schools when they were too small in number to justify the creation of a girls' school. Likewise, the proclamation of June 21, 1923,⁶⁹ authorized young girls to take courses in classes with male students preparing for school examinations where they were admit-

63. Loi du 9 août 1879 [Law of Aug. 9, 1879], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE], Aug. 10, 1880, available at <http://www.senat.fr/evenement/archives/D42/1879.pdf> (the so-called Law Paul Bert). For more information regarding the creation of female secondary teachers training schools in 1881 (École normale supérieure de jeunes filles), see Jean-Noël Luc, *L'École normale supérieure de Saint-Cloud: clé de voûte de l'enseignement primaire, 1882-1914*, in THE MAKING OF FRENCHMEN: CURRENT DIRECTIONS IN THE HISTORY OF EDUCATION IN FRANCE, 1679-1979, at 417-27 (Donald N. Baker & Patrick J. Harrigan eds., 1980).

64. SHARIF GEMIE, WOMEN AND SCHOOLING IN FRANCE, 1815-1914 (1995). See generally Mineke van Essen & Rebecca Rogers, *Ecrire l'histoire des enseignantes: enjeux et perspectives internationales* [Writing the History of Women Teachers: Intellectual Stakes and International Perspectives], 98 HISTOIRE DE L'ÉDUCATION 5, (2003), available at <http://histoire-education.revues.org/pdf/990>.

65. See MAYEUR, L'ENSEIGNEMENT, *supra* note 61, at 420-28.

66. See *id.*

67. See *id.*

68. Le ministre de l'Instruction publique, *Circulaire du 23 octobre 1922 à MM. les Recteurs, relative à l'admission des jeunes filles dans les classes de philosophie et de mathématiques des lycées et collèges de garçons* [Proclamation of Oct. 23, 1922, on the Admission of High School Girls into Boys' Philosophy and Math Classes], 112 BULLETIN ADMINISTRATIF DU MINISTÈRE DE L'INSTRUCTION PUBLIQUE 481-82 (1922).

69. Le ministre de l'Instruction publique, *Circulaire du 21 juin 1923 à MM. les Recteurs d'Académie, autorisant les jeunes filles à suivre, dans les Établissements d'enseignement secondaire de garçons, les cours préparatoires aux grandes écoles où les femmes sont admises* [Proclamation of June 21, 1923, Authorizing Girls into Boys High Schools to Take Preparatory Classes for Colleges to Which the Girls Were Admitted], 114 BULLETIN ADMINISTRATIF DU MINISTÈRE DE L'INSTRUCTION PUBLIQUE 60 (1923).

ted. The said preparatory classes thus became mixed. But, at any moment, during the wars-between era, coeducation was yet a task.⁷⁰

The movement for the equality of the sexes became, in stride with this promotion, another object of legitimizing the French schools after the Second World War.⁷¹ The success of the movement was clear when coeducation was established in the education system in the 1960s.⁷² In 1965, coeducation was extended to all the newly created elementary schools by the proclamation of June 15, 1965.⁷³ Some of the texts of 1962 and 1968 reinforced the powers of superintendents in uniting the boys' and girls' schools. At the end of the 1960s, nearly all the primary schools were mixed. In accordance with Capelle-Fouchet's decree of August 3, 1963,⁷⁴ the Colleges of Secondary Education (CSE; *CES* in French) were mixed from their creation.⁷⁵ Coeducation remained in the high schools throughout the 1970s. The decree of application of December 28, 1976 of the Haby's law of July 11, 1975,⁷⁶ made coeducation obligatory in primary and secondary schools.

Today, the number of students affected by non-coeducation is quite insignificant. No longer do any public establishments function in a separated fashion, with the notable exception of the education houses of about 1000 young girls in the *Legion d'honneur's*

70. Rebecca Rogers, *L'impensable mixité de l'enseignement secondaire féminin en France au XXIXe siècle*, in *LA MIXITÉ DANS L'ÉDUCATION ENJEUX PASSÉS ET PRÉSENTS*, 101 (Rebecca Rogers ed., 2004).

71. See generally Anne-Marie Sohn, *Les "relations filles-garçons": du chaperonnage à la mixité (1870–1970)*, 9 *TRAVAIL GENRE ET SOCIÉTÉ* 91 (2003), available at <http://www.cairn.info/revue-travail-genre-et-societes-2003-1-page-91.htm>.

72. See Michelle Zancarini-Fournel, *Coéducation, gémiation, co-instruction, mixité: débats dans l'Éducation nationale (1882–1976)*, in *LA MIXITÉ DANS L'ÉDUCATION ENJEUX PASSÉS ET PRÉSENTS*, *supra* note 70; Rebecca Rogers, *L'éducation des filles: un siècle et demi d'historiographie*, in 115-16 *HISTOIRE DE L'ÉDUCATION* 37, 37–79 (Pierre Caspard et al. eds., 2007). See also the 2003 French Senatorial Report on Coeducation. *La mixité menacée? Rapport d'information sur l'activité de la délégation aux droits des femmes et à l'égalité des chances entre les hommes et les femmes pour l'année 2003*, SÉNAT [hereinafter *Report on Coeducation*], <http://www.senat.fr/rap/r03-263/r03-2637.html> (last visited Jan. 15, 2011).

73. See *Report on Coeducation*, *supra* note 72.

74. Décret 63-793 du 3 août 1963 [Decree 63-793 of Aug. 3, 1963].

75. Décret 76-1303 du 28 décembre 1976 [Decree 76-1303 of Dec. 28, 1976], relating to the formation and orientation of *collèges* [secondary schools]. *Collèges* are equally open to students of both sexes. *Report on Coeducation*, *supra* note 72. This was done in order to face the explosion of staff and the number of teachers resulting from a growing demographic during the baby boomer period and from a growing social demand for education.

76. Loi 75-620 du 11 juillet 1975 [Law of July 11, 1975], *JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE* [J.O.] [OFFICIAL GAZETTE OF FRANCE], July 12, 1975, available at http://dcalin.fr/textoff/loi_1975_education.html. Minister of Education René Haby finalized Ferry's project of a full democratic school by homogenizing the contents and refusing to orientate pupils in distinctive sections before the age of fourteen.

school.⁷⁷ Additionally, only about 200 non-coeducation establishments even exist within the private school sector, and these are very often contracted outside of the government.⁷⁸

C. *The 1905 Law and the Separation*

The year 2005 was a year of great jubilation for laïcité. Christened “the Centennial of Laïcité,” by media and population, 2005 saw the law of 1905 celebrated with great pomp and circumstance. The general excitement led to the organization of a major conference that lasted for several days at the Institut de France.⁷⁹ There were also thousands of events across France throughout the entire year.

Despite this exuberance, historians take great care to explain the long maturation process that led to the separation of the state and of religious organizations in France,⁸⁰ the importance of the Concordat of 1801,⁸¹ the importance of the 1804 Civil Code⁸² (which was and remains completely “laïque”), and the non-French origins

77. The Legion d'honneur (Legion of Honor) was founded by King Louis XIV and his wife, Madame de Maintenon, to support young female aristocrats whose fathers had given their lives during royal wars. At that time, this royal “boarding school” was called Saint-Cyr. Napoleon replaced the name but used it for the same purpose. There, young girls, whose fathers had received the Legion d'honneur for bravery at war, were educated by the state. This institution is still in existence today for female children whose parents or grandparents have been honored with the Legion d'honneur's medal. See MAISON D'ÉDUCATION DE LA LEGION D'HONNEUR, <http://www.melh.fr/> (last visited Jan. 15, 2011).

78. See Report on Coeducation, *supra* note 72.

79. *Un siècle de laïcité en France*, CANAL ACADEMIE, <http://www.canalacademie.com/Un-siecle-de-laicite-en-France.html> (last visited Jan. 15, 2011).

80. See generally PAUL AIRIAU, CENT ANS DE LAÏCITÉ FRANÇAISE 1905–2005 (2005); JEAN BAUBÉROT, LAÏCITÉ 1905–2005, ENTRE PASSION ET RAISON (2004); MAURICE LARKIN, CHURCH AND STATE AFTER THE DREYFUS AFFAIR: THE SEPARATION ISSUE IN FRANCE (1974); LALOUETTE, *supra* note 17; JEAN-MARIE MAYEUR, LA SÉPARATION DES ÉGLISES ET DE L'ÉTAT (3d ed. 2005); LA SÉPARATION DE 1905: LES HOMMES ET LES LIEUX (Jean-Pierre Chantin & Daniel Moulinet eds., 2005); SCOT, *supra* note 28; YVES TRIPIER, LA LAÏCITÉ: SES PREMICES ET SON ÉVOLUTION DEPUIS 1905 (2003); 1905: QUAND L'ÉTAT SE SÉPARAIT DES ÉGLISES (Jean-Michel Ducomte ed., 2005).

81. By which Napoleon established an agreement between the French state and the Catholic Church, recognizing the latter as the church of most French citizens and providing for bishops to be appointed as state employees. The Concordat was included in the law of 1802, which established several “public” denominations supported by the state. SELECT DOCUMENTS ILLUSTRATING MEDIAEVAL AND MODERN HISTORY 448–52 (Emil Reich ed., Kessinger 2004) (1905). The law of 1905 officially ended this agreement. Loi du 9 décembre 1905 [Law of Dec. 9, 1905], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE], Dec. 11, 1905, art. 2, available at <http://www.assemblee-nationale.fr/histoire/eglise-etat/sommaire.asp>.

82. The 1804 Civil Code was widely seen as the civil constitution of France. See Xavier Blanc-Jouvan, *Symposium: The Challenge of Recodification Worldwide: Towards the Reform of the Law of Obligations in France: The Reasons for the Reform*, 83 TUL. L. REV. 853, 855 (2009).

of the 1905 law and its borrowings from English philosophy and the U.S. system. Despite the fact that historians show the useful and pacifying effects of this act as severing the French from previous obligations permitted, the collective memory of the French has made the 1905 law the glorious act of “Separation” that tore the state from the Catholic Church and laid down a truth that each and everyone shares: religion is a private affair. The public sphere and services in France are declared *laïques*, or “lay.” The manner in which the law is presented by historians is still contentious, divided between those who lay out its genesis as an intense battle carried on by anti-clericals against the Catholic Church, and those who see in it an intelligent and constructive element of the nineteenth century conflict of the two Frances: the Republican and the Catholic.⁸³ It remains difficult to accept the idea of a maturation of this phenomenon, of a blossoming system that evolves with history, which has been defended by Jean Baubérot and his pacified pedagogy of laïcité’s thresholds.⁸⁴ In the common sense, before 1905, French schools were secular; with the 1905 law the state became secular.⁸⁵ This is akin to a logic of spontaneous generation. Henri Pena-Ruiz, whose book adopts a rather militant tone throughout, speaks, when designating the period that precedes 1905, of the concordat regression. Pena-Ruiz derives from the concordat’s existence the categorical conclusion: “The state is therefore not secular [before 1905],”⁸⁶ although he denies, as Jacqueline Lalouette points out, that this problem was divisive for nineteenth century politicians and continues to this day to provoke disputes for historians and legal scholars.⁸⁷

D. *The 2004 Law on the Headscarf and the Defense of the Equality of the Sexes*

One might be brought to imagine having gone back in time to the period where the artist Caran d’Ache was drawing sketches of the Dreyfus Affair. . . Everything else being equal, to talk about the headscarf in the fall of 1989 had the same effect as did the question of the innocence or guilt of captain Dreyfus a century earlier: even in the most united of groups, the subject

83. For the first, see Pena-Ruiz, Sévillia, and Nicolet; for the second, see Rémond, Baubérot, Lalouette, Poulat, and Airiau.

84. See generally JEAN BAUBÉROT, *VERS UN NOUVEAU PACTE LAÏQUE?* (1990).

85. See generally HENRY PENA-RUIZ, *LA LAÏCITÉ* (2003).

86. PENA-RUIZ, *supra* note 16, at 53–54.

87. Jacqueline Lalouette, *Laïcité et Séparation des Eglises et de l’Etat, esquisse d’un bilan historiographique (2003–2005)*, CCCXIV/4 REVUE HISTORIQUE 849, 856 (2005).

aroused such discord, such an inability to understand each other, because no one could listen to each other.⁸⁸

The Centenary of the 1905 law held in 2005 had undoubtedly the same pomp because it followed on the heels of the infamous *affaire du voile* (the Islamic veil debate),⁸⁹ which further entrenched France in its secular mythology. The *affaire du voile* was the Dreyfus Affair⁹⁰ of the Fifth Republic. At that time, there was an enemy to be fought and a just cause. The debate lasted fifteen years and reached its apogee in 2003.⁹¹ The enemy was the Muslim religious fanaticism that invaded republican space and the just cause was that of oppressed Muslim girls. Jean Baubérot insists that the unanimity that surrounds laïcité as the cornerstone of *the French identity*, the French-*lay* exceptionalism, has only been invoked since 1990, soon after the first Islamic veil debate having to do with the wearing of the headscarf at public school by Muslim students occurred (in 1989).⁹² Before then, Mexico or even the United States had been considered by French militants of laïcité as countries even more secular than France.⁹³ Indeed, up until the middle of the 1980s, laïcité was still only an issue of left-wing political militancy for a society that had not yet properly put it into practice. The conflict eventually crystallized around the schools and the regression that was seen in the public or state subsidies given to private schools under the 1959 Debré law.⁹⁴ Given that the majority of these schools were Catholic, the upholders of laïcité wanted to proclaim the end of the system and the integration of Catholic

88. FRANÇOISE GASPARD & FARHAD KHOSROKHAVAR, *LE FOULARD ET LA RÉPUBLIQUE* (1995).

89. The dispute on the Islamic veil took place in 2003 and led to a law banning the Islamic veil from French public schools in March 2004. See generally Claire de Galember, *Le voile en procès*, 68 DROIT ET SOCIÉTÉ 11 (2008); Jen'nan Ghazal Read, *Introduction: The Politics of Veiling in Comparative Perspective*, 68 SOC. RELIGION 231 (2007).

90. The Dreyfus Affair was one of the most passionate French political crises at the end of the nineteenth century in France, entrenching the Catholic Right against the Republican Left about the alleged treason of a German-named Jewish officer. See generally JEAN-DENIS BREDIN, *THE AFFAIR: THE CASE OF ALFRED DREYFUS* (2010); *France on the Threshold of the 20th Century, 1906: DREYFUS REHABILITATED*, <http://www.dreyfus.culture.fr/en/on-the-threshold-of-the-20th-century> (last visited Jan. 15, 2011).

91. See generally GASPARD, *supra* note 88; Sonia Dayan-Herzbrun, *The Issue of the Islamic Headscarf*, in *WOMEN, IMMIGRATION AND IDENTITIES IN FRANCE* 69 (Jane Freedman & Carrie Tarr eds., 2000); Jean Baubérot, *L'affaire des foulards*, 120 L'HOMME ET LA SOCIÉTÉ 9 (1996); David Beriss, *Scarves, Schools, and Segregation: The Foulard Affair*, 8 FRENCH POLITICS AND SOCIETY 1 (1990); Blandine Chelini-Pont, *Velo islamico y opinion publica in Francia*, 1 REVUE D'ECHO Y RELIGION 263 (2006); Florence Rochefort, *Foulard, genre et laïcité en 1989*, 75 VINGTIÈME SIÈCLE, REVUE D'HISTOIRE 145 (2002).

92. Baubérot, *supra* note 20, at 22–23.

93. *Id.* at 21–22.

94. See *supra* note 42.

schools into a unified public system.⁹⁵ In sum, “laïcité” was not yet constitutive of a consensual French identity, despite the fact that in 1946 (with the Fourth Republic) and in 1958 (with the Fifth Republic) the constitution had pronounced that France was a *République laïque*, or a “secular Republic.”⁹⁶

Laïcité was a distinctive element of a leftist identity. According to Baubérot,⁹⁷ the leftist politician Michel Rocard indicated repeatedly in his Memoires that laïcité was invoked, in the 1960s and 1970s, by his political friends in order to block an alliance between socialists and left-leaning Catholics. Historian Jacqueline Lalouette explains that as for her, in the 1960s and 1970s, laïcité had become a sort of pet peeve for sectarian minds.⁹⁸ Researcher on French politics Martine Barthélémy confirms this point of view:

The history of laïcité made of it a value of the left, associated with anticlericalism, if not a frank hostility towards religion. It constituted the lynchpin of the attitudinal systems of left wing militants, detached from Catholicism, particularly among teachers. These militants intend to protect the public schools from any religious influence, to cultivate values of public service and to emphasize above all the primacy of the role of the State in social change.⁹⁹

Laïcité is thus a “partisan code of political interpretation: it is less a constituted doctrine than a system of organization and of political perception, a code that interprets and explains a vision of the world.”¹⁰⁰

Thus, by the grace of the 1980s, *laïcité* lost its color of national squabbles. Militancy for or against the private school disappeared. The hand changed in 1989, the year that saw the Berlin Wall fall, the *fatwa* of Khomeiny against Salman Rushdie, and, in France, the first “dispute” over headscarves.¹⁰¹ The fear of Islam unified mem-

95. See JEAN BATTUT, CHRISTIAN JOIN-LAMBERT & EDMOND VANDERMEERCH, 1984 LA GUERRE SCOLAIRE A BIEN EU LIEU (1995); Jean-Marie Mayeur, *La guerre scolaire, ancienne ou nouvelle histoire*, 5 REVUE VINGTIEME SIECLE: REVUE D'HISTOIRE 101 (1985), available at <http://www.jstor.org/pss/3769307>.

96. 1958 CONST. art. 1.

97. See SYLVIE SANTINI, MICHEL ROCARD: UN CERTAIN REGRET (2005), quoted in Baubérot, *supra* note 20, at 22.

98. Lalouette, *supra* note 87, at 870.

99. Martine Barthélémy & Françoise Subileau, *Le militantisme laïque: Deux cas d'école*, in AUX FRONTIÈRES DES ATTITUDES: ENTRE LE POLITIQUE ET LE RELIGIEUX 69–84 (Jean-Marie Donegani, Sophie Duchesne & Florence Haegel eds., 2002); see also Françoise Subileau, *Les militants socialistes et la laïcité*, in LA LAÏCITÉ, UNE VALEUR D'AUJOURD'HUI: CONTESTATIONS ET RENEGOCIATIONS DU MODELE FRANCAIS 173 (Jean Baudouin & Philippe Portier, eds., 2001) [hereinafter Subileau, *Les militants*].

100. Subileau, *Les militants*, *supra* note 99, at 175.

101. See Beriss, *supra* note 91.

ories about *laïcité*. Socially, the new common question progressively came to be articulated, “Is Islam compatible with *laïcité*?” Jean Baubérot states as follows:

From that moment on, *laïcité* (and, ultimately, *catho-laïcité*” [Trans: *catho-laïcité*, playing off of “*catho-licity*”]), invoked by both the left and the right, played the role of a French ‘civil republican religion,’ without having the same content as the [R]ousseauist civil religion of the Revolution [of 1789], while assuming a comparable function.¹⁰²

Finally, if we follow the analysis given by Claire de Galember,¹⁰³ the secular consensus today does not result from the appeasement of the conflicts between Catholics and left-wing secular culture, a sort of “accepted” *laïcité*, taking the place of a “radicalized” one. The actual consensus is not a common view of *laïcité* having finally become in the eyes of Catholics themselves “a point of convergence and uniting.”¹⁰⁴ If such had been the case, the term “*laïcité*” would have disappeared or would have been transformed into a dispassionate and clear definition of French constitutional principles in the international debate over religions in democracies. There, in fact, concrete *laïcité* is more open than the national myth that has been reactivated. The headscarf has provoked a reaction of fear, of a “nativist” type, in the face of immigration, religious, and identity-oriented claims made by Muslims, terrorism, de-territorialization, and the cultural crumbling of populations, a fear provoked by the real disarray of the French regarding their identity definitions.

Researchers denounce today’s over-sanctification of *laïcité* as an obstacle to the future and a waste of energy.¹⁰⁵ A more scientific and dispassionate perspective of *laïcité*, emptied of its symbolic charge, would help in practicing the accommodations necessary for the evolution of French society. Worse yet, refusing to secularize the idea of *laïcité* leads to the opposite of the desired result, that is, preserving true justice between the citizens.¹⁰⁶ Is French

102. Baubérot, *supra* note 20, at 24.

103. Claire de Galember’s contribution in the special issue of the journal *Droit et Société* devoted to *voile en procès* [the veil in court] is quite remarkable. Galember, *supra* note 89, at 11–31. See also the contribution of John Bowen, an anthropologist, who undertakes explaining the law’s adoption by situating it within the *longue durée* of the history of *laïcité*. John R. Bowen, *Why Did the French Rally to a Law Against Scarves in Schools?*, 68 *DRIT ET SOCIÉTÉ* 33 (2008).

104. See ÉMILE POULAT, *LIBERTÉ LAÏCITÉ*, 199–202 (1987).

105. See, e.g., RAPHAËL LIOGIER, *UNE LAÏCITÉ LÉGITIME* (2006).

106. See Pierre Kahn, *Is Laïcité a Value?*, 39 *SPIRALE* 29, 29–37 (2007). In this essay, Kahn successfully illuminates *laïcité* through the use of John Rawls’s rule of freedom prior-

national identity stronger since the headscarf was forbidden in French schools? The problem is much deeper and it carries with it the discrepancy between the memory and the social reality of France. To act with an excessive sense of *laïcité*, in France, discriminating against or without the perspective of immigrants or disenfranchised segments of society, does not appear to be a good solution. Thus, a bill proposed in 2008 by socialist tenors for defending *laïcité in the Republic*, like Jean Glavany and Jean-Marc Ayrault, sought to create a public form of civic worship for *laïcité* and human rights among several other propositions.¹⁰⁷

Even if this bill appeared to be particularly left-oriented, some of its propositions have yet lingered. This was apparent in the 2007 reaffirmation of the neutrality of public services and the distribution of a Charter on *Laïcité* in all State offices, particularly in hospitals, a new space threatened by religious exchange.¹⁰⁸ This was also apparent in the creation of a veritable naturalization ceremony, found in the law of July 24, 2006, relative to the regulation of immigration.¹⁰⁹ The processes for giving French nationality have since become significant stakes in the symbolic construction of identity. Not only have procedures been reinforced, but also they have been backed by vigilance with respect to new citizens sharing the values of *laïcité* or republican values.¹¹⁰ Thus, the Council of State has twice validated the ability to refuse naturalization on the grounds of “value incompatibility”: the decision of June 27, 2008, confirmed a ministerial decree from 2005 refusing French citizenship to a thirty-two-year-old Moroccan woman who married a French national, because her burka was “incompatible with the essential values of the French community.”¹¹¹ For historian Jean Baubérot, this decision equates to “a civil religion decree; it’s more a religious

ity. *Laïcité* should not be understood as substantial but as a fair means to achieve citizens’ freedom.

107. See Proposition de Loi visant à promouvoir la laïcité dans la République [Draft Bill to Promote the Secularism in the Republic], No. 710, Treizième Législature (2008).

108. See Letter from Dominique de Villepin, Prime Minister, Charte de la laïcité dans les services publics (Apr. 13, 2007), available at http://www.fonction-publique.gouv.fr/IMG/Circulaire_PM_5209_20070413.pdf.

109. See CODE CIVIL [C. CIV.] arts. 21–28.

110. See Frédéric Dieu, *La pratique religieuse peut-elle être un obstacle à l’acquisition de la nationalité française? Des rapports conflictuels entre l’Islam et la République*, in DROIT ET RELIGIONS: ANNUAIRE, ANNEE 2009–2010, at 345, 345–56 (2009).

111. See CE, June 28, 2007, Rec. Lebon 286798.

decision than one of *laïcité*. This is republican civil religion, not *laïcité*.”¹¹²

II. THE FRENCH REPUBLIC AS A BROADER MYTH FOR CIVIL RELIGION?

If the values of the Republic are now confused with a contested and recently unanimous *laïcité*, is Republic, another French totem, less contestable? For the moment, the French Republic remains deeply sanctified, but we see new signs of future contestation. Even richer than *laïcité* as a federating myth, the Republic can be considered as the object of a civil religion that widens the restricted circle of *laïcité*'s religion.

A. A Providential History to Republic

A strange combination, a secret alchemy has melted into the collective French consciousness of history and national myth. This is the lesson we learn from Suzanne Citron's study, *Le Mythe national, l'histoire de France revisitée* ("The National Myth, The History of France Revisited").¹¹³ For this historian and many others, the Republic lives as a legend that began with the great nineteenth-century historian Jules Michelet, the great inspirer.¹¹⁴ Suzanne Citron presents excerpts from primary school manuals, starting with their mother text, the *Petit Lavissee*,¹¹⁵ whose style and method is also found in manuals from the 1960s. This "anthology of the French at school" has only been slightly modified. Of course, there are few today who were taught directly from the *Petit Lavissee* manual (or from one of its imitators). But French have preserved the permanence, in filigree, of this mother text up to the last revision of elementary schools in 2002, in which Citron points out the apparently uncorrupted "lavissien" character.¹¹⁶

The "search for France" reveals a stratified construction that stems from an original starting point, Frankish memory. The *Grandes Chroniques de France*¹¹⁷ ("Grand Chronicles of France") from the thirteenth century is at the origin of this legendary mem-

112. See Jean Baubérot, *La Laïcité en crise? Une conquête toujours en devenir*, 136 *INFORMATIONS SOCIALES* 48, 48–59 (2008).

113. See generally SUZANNE CITRON, *LE MYTHE NATIONAL: L'HISTOIRE DE FRANCE REVISITÉE* (2008).

114. See *id.* at 22–28.

115. See Pierre Nora, *Lavissee: instituteur national*, in *LES LIEUX DE MÉMOIRE*, *supra* note 44, at 239–75; CITRON, *supra* note 113, at 31–47.

116. See CITRON, *supra* note 113, at 106–07.

117. See FRANCE BEFORE CHARLEMAGNE (Robert Levine trans., 1990).

ory.¹¹⁸ By rewriting and rearranging ancient stories of the Franks, the historiographer monks of the Saint-Denis Abbey, great servants to the Capetian kings, justified their dynasty as the true and sole heir of Charlemagne, Clovis, and even their legendary Trojan ancestors.¹¹⁹ The invention of this prestigious past created, among a small elite group of readers, the image of a France inseparable from the king who incarnated it, while the royal religion, diffused and exalted by the Church, shaped a popular love for a king marked by the seal of God and consecrated for his coronation. The *Grandes Chroniques* would be summarized in the “abridged history of France” in the sixteenth and seventeenth centuries.¹²⁰

Then, the Revolution substituted the nation for the king by transferring to it the absolutism formally concentrated in the monarchy.¹²¹ The liberal historians of the nineteenth century integrated the story of the *ancien régime* as the core of the nation’s story.¹²² In the story of the kings, they readjust the segment of the Gaulish origins, a recent myth, by placing it before that of the Franks and then placing the revolutionary explosion afterwards.¹²³ At the end of the century, the republican historians created the great synthesis of “France from its origins to our day.”¹²⁴ That history started with “Gaul,” always an object of legend.¹²⁵ Modern France was latent in this Gaul and in the first two dynasties (Merovingian then Carolingian), and then it was “made” by the Capetian kings.¹²⁶ The Revolution pronounced the rights of man, confirmed an exceptional destiny pre-figured by the spreading of French culture during the seventeenth and eighteenth centuries.¹²⁷ In this version, France became the messenger of human-

118. See Bernard Guénée, *Les grandes chroniques de France*, in LES LIEUX DE MÉMOIRE, *supra* note 44, at 739–58.

119. In 250 B.C., Celtic tribes inhabited Gaul. For example, a Gallic tribe called “Parisii” settled around modern-day Paris. In 58–52 B.C., Julius Caesar brought about the conquest of Gaul; in 52 B.C., the Gallic chief Vercingetorix surrendered. In 486, Clovis commanded Frankish (Germanic) tribes in France, and the Merovingian line started. In 751, the Carolingian line, associated with Charlemagne, began. In 987, the Capetian line began with Huguès Capet’s coronation in Paris. See CITRON, *supra* note 113, at 115–34.

120. *Id.* at 130–34.

121. *Id.* at 26–28, 168–73.

122. *Id.* at 175–76.

123. *Id.* at 177–82.

124. *Id.* at 28.

125. See CITRON, *supra* note 113, at 153–63; Krzysztof Pomian, *Francs et gaulois*, in LES LIEUX DE MÉMOIRE, *supra* note 44, at 2239, 2239–99.

126. See CITRON, *supra* note 113, at 153–63.

127. *Id.* at 37–40.

ity.¹²⁸ Several decades still had to pass before the Revolution was finally accomplished by the institutionalization of the Republic.¹²⁹ Such is, briefly stated, the providential history of the Republic, seized in its best mythology by the historian Ernest Lavisse.¹³⁰

B. *An Indivisible Nation*

In reality, the word “nation” in the sense that we hear it today is an invention of the French Revolution and its more recent internalization through the school system of the Third Republic (1871–1940). In the process of human history, the French Revolution crystallized a concept and a new geopolitical reality: the state-nation-territory.¹³¹ The word “nation” until then designated an ethnic, cultural entity or a group of people with common ancestors, a common genealogy marked by a language, religion, and customs. The Revolution crystallized a political idea of nation in gestation in the preceding decades. It emerged as a new historical object when the *députés* of the *Etats généraux* proclaimed themselves the *Assemblée nationale* on July 9, 1789.¹³² This *Assemblée* incarnated sovereignty. This power, exercised in the name of the Nation, was thought of as an absolute. The Nation itself was proclaimed one and indivisible, in the inverted image of the king, by *députés* whose political culture was inherited from absolute monarchy. In the first Constitution of 1791, royalty was indivisible, as was national sovereignty.¹³³ In 1792, the Republic was proclaimed one and indivisible.¹³⁴ But the kingdom, meaning the collection of the territories conquered by the monarchy, was also declared indivisible.¹³⁵ It was to be defended against invaders. In the name of liberty, revolutionary victories led to a logic of territorial conquest inherited from

128. *Id.* at 40–43.

129. *Id.* at 43–46.

130. See Pierre Nora, *L'histoire de France d'Ernest Lavisse: Pietas erga patriam*, in LES LIEUX DE MÉMOIRE, *supra* note 44, at 851–902.

131. CITRON, *supra* note 113, at 167–68. For the history of French borders, see Daniel Nordman, *Des limites d'état aux frontières nationales*, in LES LIEUX DE MÉMOIRE, *supra* note 44, at 1125–47. This source is also available in English. See Daniel Nordman, *From the Boundaries of the State to National Borders*, in 1 RETHINKING FRANCE: THE STATE, *supra* note 44, at 105–33.

132. See *Histoire de l'Assemblée nationale: Le temps de l'invention (1789–1799)*, ASSEMBLÉE NATIONALE, <http://www.assemblee-nationale.fr/histoire/histoire-1789.asp> (last visited Jan. 15, 2011).

133. See 1791 CONST. tit. II, art. 1.

134. 1793 CONST. DÉCLARATION DU 25 SEPTEMBRE 1792, available at <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/la-constitution/les-constitutions-de-la-france/constitution-du-24-juin-1793.5084.html>.

135. See 1791 CONST. tit. III, art. 1.

the monarchical tradition. Thus, a new historical reality emerged: the nation-state [*l'Etat-nation-territoire*].¹³⁶

C. *Symbols of the French Republic*

All of these symbols, like the day of commemoration of July 14, were established by the Third Republic in its founding period.

1. The flag

The French flag seems eternal. It has, however, taken some time to come to a consensus. The national emblem of the Fifth Republic, the tri-colored flag, was born during the French Revolution.¹³⁷ It consists of the colors of the King's flag and army (white) and the city of Paris' milice (blue and red).¹³⁸ Today, the tri-colored flag floats above all public buildings and it is deployed in most official ceremonies, both civil and military. During the first days of the French Revolution, the three colors were, first of all, brought together in a two-colored cockade using the traditional colors of the Parisian Guard, blue and red.¹³⁹ On July 17, Louis XVI arrived in Paris to recognize the new National Guard.¹⁴⁰ He wore a white cockade to which it seems Lafayette, commander of the Guard, had added the Parisian Guard blue and red.¹⁴¹ The Law of 27 Pluviôse, year II (February 15, 1794, on the Roman calendar) made the tri-colored flag the national symbol by specifying, according to the painter David's drawing, that the blue should be attached to the pole.¹⁴² The nineteenth century saw the confrontation of the white of the royalist legitimists and the three colors inherited from the Revolution.¹⁴³ The white flag was brought back under the Restoration, but Louis-Philippe opted for the tri-colored flag and placed it above the symbol of the Gaul rooster.¹⁴⁴ During the Revolution of 1848, even though the tri-colored flag was adopted

136. "The French Republic is one and indivisible. Its European territories are divided into departments and municipal districts." 1799 CONST. art. 1, *available at* <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/la-constitution/les-constitutions-de-la-france/constitution-du-22-frimaire-an-viii.5087.html>.

137. See Raoul Girardet, *Les trois couleurs, ni blanc, ni rouge*, in *LES LIEUX DE MÉMOIRE*, *supra* note 44, at 49, 49–66.

138. See *id.* at 51–52.

139. *Id.* at 52.

140. *Id.* at 50.

141. *Id.* According to Girardet, Bailly, the mayor of Paris, and not Lafayette might have been responsible for this addition.

142. *Id.* at 55.

143. See *id.* at 55–56.

144. *Id.* at 56.

by the provisional government, it was the red flag that was raised by the people on the barricades as a sign of revolt.¹⁴⁵ Under the Third Republic, a consensus on the three colors was progressively established.¹⁴⁶ Since 1880, the display of army flags during the celebration of July 14 has been a moment of great patriotic sentiment. Even though the Count of Chambord, a claimant of the French throne, never accepted the tri-colored flag, the Royalists eventually rallied to it during World War I.¹⁴⁷ Article 2 of the constitutions of 1946 and 1958 made the tri-colored flag the national emblem of the Republic. Today, the French flag is visible on public buildings. It is raised during national commemorations and is honored by a specific ceremony. When the President of the Republic appears in public, the French flag is often placed behind him. Depending on the circumstances, the European flag or the flag of another nation is also displayed.

2. The Motto: Liberty, Equality, Brotherhood

As a heritage from the French Enlightenment, the motto “Liberty, Equality, Brotherhood” was used for the first time during the French Revolution.¹⁴⁸ After being used often, it was finally adopted by the Third Republic. It is written in the Constitution of 1958¹⁴⁹ and is part of France’s national heritage today.

Associated by Fénelon at the end of the seventeenth century, the notions of liberty, equality, and brotherhood were more widespread during the French Enlightenment.¹⁵⁰ Furthermore, during the French Revolution, “Liberty, Equality, Brotherhood” was one of the many mottos used.¹⁵¹ In a speech on the organization of the National Guard in December 1790, Robespierre recommended that the words “The French People” and “Liberty, Equality, Brotherhood” be inscribed on the uniforms and the flags, but his idea was not accepted.¹⁵² Since 1793, Parisians and those in other cities

145. *Id.* at 58–60. The red flag was used during the Parisian barricades of 1832, in February 1848, and during the insurrectional period of the Parisian “Commune” in 1871. For more information on the 1848 episode, see Mona Ozouf, *Liberté, égalité, fraternité*, in *LES LIEUX DE MÉMOIRE*, *supra* note 44, at 4370–71.

146. *See* Girardet, *supra* note 137, at 60–64.

147. *See id.* at 49–50.

148. For the complete history of the motto, see Ozouf, *supra* note 154, at 4353–88.

149. 1958 CONST. pmb1.

150. *See* Ozouf, *supra* note 154, at 4356.

151. *See id.* at 4357–59.

152. Maximilien Robespierre, Speech on the Organization of the National Guards (Apr. 27–28, 1791), *available at* http://membres.multimania.fr/discours/gardes_nationales.htm (art. XVI).

who imitated them, painted the fronts of their homes with the following words: "Unity, indivisibility of the Republic; Liberty, Equality or Death."¹⁵³ But, they were soon required to erase the last part of the phrase because it was too closely associated with the Reign of Terror.¹⁵⁴

Like many of the revolutionary symbols, the motto fell into disuse under the Empire. It reappeared during the Revolution of 1848 through a religious dimension: priests were celebrating the Brotherhood of Christ and blessed the trees of liberty that were then planted.¹⁵⁵ When the Constitution of 1848 was written, the motto "Liberty, Equality, Brotherhood" was defined as a "principle" of the Republic.¹⁵⁶ Ignored by the Second Empire, it was eventually adopted under the Third Republic.¹⁵⁷ Yet, it still had a few opponents, including the partisans of the Republic: solidarity was sometimes preferred over equality, which implied a social leveling and that the Christian connotation of brotherhood did not create unanimity.¹⁵⁸ It was immediately replaced during Vichy's regime by the motto Work, Family, and Fatherland.¹⁵⁹ It was a part of the constitutions of 1946 and 1958 and is still today a part of French national heritage.¹⁶⁰ The motto is found on widely distributed objects such as coins and stamps.

3. Marianne

Even though the Constitution of 1958 privileged the tri-colored flag as the national emblem, Marianne, the so-called sculpted woman bust, also incarnated the French Republic.¹⁶¹ The first representations of a woman in a Phrygian bonnet, allegory of Liberty

153. Ozouf, *supra* note 154, at 4359. The motto "Liberty or Death" was also frequently used and is featured at the base of Marianne's statue at the Pantheon in Paris.

154. *See id.* at 4365, 4377.

155. *See id.* at 4369–75.

156. "[The French Republic] has principles of Liberty, Equality and Brotherhood. It is based on the Family, Work, Property, and Public Order." 1848 CONST. pmb., available at <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/la-constitution/les-constitutions-de-la-france/constitution-de-1848-ii-republique.5106.html> (translated by author from the French).

157. *See Ozouf, supra* note 154, at 4377–81.

158. *See id.* at 4381–83.

159. *See id.* at 4382.

160. *See* 1946 CONST. art. 2; 1958 CONST. pmb.

161. For the full story of this Republican figure, see generally MAURICE AGULHON, *MARIANNE INTO BATTLE* (Janet Lloyd trans., Cambridge University Press 1981) (1979) [hereinafter AGULHON, *BATTLE*]; MAURICE AGULHON & PIERRE BONTE, *MARIANNE: LES VISAGES DE LA RÉPUBLIQUE* (1992); *LE SIÈCLE DE L'AVÈNEMENT RÉPUBLICAIN* (François Furet & Mona Ozouf eds., 1993).

and the Republic, appeared during the Revolution.¹⁶² The origin of the name Marianne is not known for sure.¹⁶³ As a very common name during the eighteenth century, Marianne represented the people.¹⁶⁴ But, the counter-revolutionaries called the Republic by this name as a mockery.¹⁶⁵ As a symbol of liberty, the Phrygian bonnet was worn by the freed slaves in Greece and Rome.¹⁶⁶ A similar sort of bonnet was also worn by sailors and galley slaves of the Mediterranean and was adopted by the revolutionaries from the Midi.¹⁶⁷ Under the Third Republic, the statues and especially the busts of Marianne multiplied, particularly in the *mairies* or "town halls."¹⁶⁸ Several types of representation developed, depending on preferences for her revolutionary character or her wiser characteristics.¹⁶⁹ The Phrygian bonnet was sometimes considered too seditious and was replaced by a tiara or a crown.¹⁷⁰ Today, Marianne is represented by the faces of famous singers or actresses.¹⁷¹ She is also on objects of mass distribution like postage stamps.

D. *The Day of Commemoration: July 14*

The day of the Revolution in Paris became a national holiday. Today, July 14 represents the solemnity of military parades and the conviviality of balls and fireworks. Although the day is generally associated with the taking of the Bastille, which occurred on July 14, 1789, it is the celebration of the Federation (July 14, 1790) that has been commemorated in France for over a century.¹⁷²

162. These representations were adopted on Abbé Grégoire's proposal. See AGULHON, BATTLE, *supra* note 161, at 27.

163. *Id.* at 33.

164. *Id.*

165. *Id.* at 34.

166. *Id.*

167. *Id.*

168. See MAURICE AGULHON, MARIANNE AU POUVOIR 21–35 (1989).

169. *See id.*

170. *See id.* at 28. Maurice Agulhon points out a difference between the wise Marianne, represented by a tiara, and the revolutionary Marianne, whose head was covered with a red bonnet.

171. Two such actresses are Brigitte Bardot and Catherine Deneuve. To follow the story of these new faces of Marianne since 1969, see generally MAURICE AGULHON, LES MÉTAMORPHOSES DE MARIANNE: L'IMAGERIE ET LA SYMBOLIQUE RÉPUBLICAINE DE 1914 A NOS JOURS (2001).

172. *See generally* MONA OZOUF, LA FÊTE RÉVOLUTIONNAIRE 1789–1799 (1976). Between 1790 and the installation of the Third Republic and its lasting commemorations, France has attempted to hold other commemorations. *See generally* RÉMI DALISSON, LES TROIS COULEURS, MARIANNE ET L'EMPEREUR: FÊTES LIBÉRALES ET POLITIQUES SYMBOLIQUES EN FRANCE 1815–1870 (2004).

1. The taking of the Bastille

In the first few months of the French Revolution, Paris was in a state of great unrest. In the spring of 1789, the *Etats Généraux* refused to dissolve and transformed themselves into the *Assemblée nationale* (“National Assembly”).¹⁷³ In July, King Louis XVI brought in new troops and got rid of Necker, the popular minister.¹⁷⁴ On the morning of July 14, the people of Paris carried arms to *Invalides* and then moved towards an old royal fortress, the Bastille.¹⁷⁵ After a bloody firefight, they freed the prisoners who were locked inside.¹⁷⁶ The taking of the Bastille became the first victory of the people of Paris against a symbol of the *ancien régime*.¹⁷⁷ The building was demolished in the following months.¹⁷⁸ The “celebration of the Federation,” July 14, 1790, lavishly celebrated the first anniversary of the insurrection.¹⁷⁹ In Paris on the Champ de Mars, a mass was conducted by Talleyrand upon the altar of the homeland.

2. The national holiday

Shortly afterwards, the commemoration of July 14, 1789, was abandoned until the Third Republic, notably Gambetta, who wanted to celebrate the foundations of the regime. On recommendation of the *député* (representative) of the Seine, Benjamin Raspail, the law of July 6, 1880, made July 14 the national holiday of the Republic.¹⁸⁰ The focus was placed from the beginning on the patriotic and military character of the revolt in order to prove the recovery of France after its defeat in 1870. All the *communes*, or regions of France, were involved. The celebration started with a torch parade on the evening of July 13.¹⁸¹ The next day, church bells announced the parade, followed by a meal, spectacles, and games.¹⁸² Balls and fireworks ended the day.¹⁸³ After the austerity of World War I, July 14, 1919, was a great celebration of victory. In

173. See JACQUES GODECHOT, *LES RÉVOLUTIONS 1770–1799*, at 122–39 (1970).

174. *Id.*

175. JACQUES GODECHOT, *LA PRISE DE LA BASTILLE, 14 JUILLET 1789* (1989).

176. *Id.*

177. *Id.*

178. *Id.*

179. See OZOUF, *supra* note 172, ch. II.

180. *Tout savoir sur le 14 juillet: La fête nationale*, 14 JUILLET 2000, <http://www.14juillet.senat.fr/toutsavoir/#projet> (last visited Jan. 15, 2011).

181. See Christian Amalvi, *Le 14 juillet, du dies irae au jour de fête*, in *LES LIEUX DE MÉMOIRE*, *supra* note 44, at 398–404.

182. *Id.*

183. *Id.*

the same spirit, July 14, 1945, was preceded by three days of civic celebrations.¹⁸⁴

3. The July 14 of today

July 14 has always been popular. In Paris, the traditional military parade along the Champs-Élysées is meticulously prepared. Balls and illuminations or fireworks occur throughout France. The presidents of the Fifth Republic have sometimes modified the proceedings of the day in order to return to the tradition of revolutionary Paris. From 1974 to 1979, the parade route varied. Since 1980, the Champs-Élysées has been re-designated as the parade site. Additionally, July 14, 1989, marked a special celebration of the bicentennial of the French Revolution.¹⁸⁵ Many foreign heads of state participated, especially by watching “la Marseillaise,” a spectacle by the fashion designer and photographer Jean-Paul Goude.¹⁸⁶ In 1994, German soldiers of the Eurocorps participated in the parade on the Champs-Élysées as a symbol of reconciliation.¹⁸⁷ Since Jacques Chirac’s presidency, young people from all over France and members of the military have been invited to the reception that is traditionally held in the Palais de l’Élysée after the parade. In July 2009, Indian troops were invited to participate in a parade on the Champs Élysées.

E. *The Contested Republic*

Despite the strong attachment that French people feel to their Republic, the French Republican model is in crisis because of the competition with regionalist feelings, the coexistence of extra-national affiliations in globalization, and above all, the crisis of the transmission of the Republic’s history.

The status of history in France is in fact paradoxical. On the one hand, there is the legend, the national mythology consecrated by schools, a chronological succession organized around great events and grand persons that shapes the history of the Republic. On the other hand, there are studies, research that leads, on particular points, to new perspectives and raises an objective, distanced, and

184. *Id.* at 415–20.

185. *See* Décret 88-823 du 18 juillet 1988 relatif aux attributions du ministre de la culture, de la communication, des grands travaux et du Bicentenaire, JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE], July 18, 1988, pp. 9392–93.

186. *13/07/1989 - Bicentenaire de la Révolution*, TFI, <http://videos.tf1.fr/retro-info-tf1/13-07-1989-bicentenaire-de-la-revolution-francaise-4376403.html> (last visited Jan. 15, 2011).

187. *Défilé de l’Eurocorps (Paris, 14 juillet 1994)*, EUROPEAN NAVIGATOR, <http://www.ena.lu/defile-eurocorps-paris-14-juillet-1994-010704745.html> (last visited Jan. 15, 2011).

critical look on previous ones already in order.¹⁸⁸ A history, “new” or different, poses questions, proposes solutions—dispersed and discontinuous of course—but that, if one thinks about it, call into question the representation of the past that schools, for a century, have been transmitting to the French and integrating as “collective memory.”¹⁸⁹ A desire grows to go beyond the legendary history that keeps French society from identifying itself.

Among historians, the expression “national novel” has become commonplace. In *Les Courants historiques en France* (“Historical Currents in France”), François Dosse and others explored attempts to “call into question the national novel.”¹⁹⁰ More recently, the phrase “national novel” has been used in gatherings among historians, in seminars for trainers and teachers, and on the national radio show “The Fabric(ation) of History” in the series France-Culture.¹⁹¹ The colonial fracture as an inheritance of the past was the object of a collective study.¹⁹² And in the last two years, a “war of memories” has popularized claims made by groups who call themselves the bearers of the covered or hidden past, or *occulté*.¹⁹³ The idea that “the history of France” was not entirely history has broken its silence. The creation of a Ministry of Immigration, Integration of National Identity, and of Codevelopment, by President Nicolas Sarkozy, which he announced during the presidential election campaign, has provoked concern. Some speeches by the president, perceived to be manipulative of the past, have caused much critical questioning.¹⁹⁴ At that time, eight historians from the Scientific Council from the National City of the History of Immigra-

188. See JEAN BAUBÉROT, *La République face à l'histoire, Tensions, impensés, rebonds, in Enjeux et usages d'une histoire critique de la république, cahiers jaurès: no. 169–170, at 29–34.*

189. See generally LAURENCE DE COCK & EMMANUELLE PICARD, *LA FABRIQUE SCOLAIRE DE L'HISTOIRE: ILLUSIONS ET DÉILLUSIONS DU ROMAN NATIONAL* (2009).

190. See generally PHILIP DAILEADER & PHILIP WHALEN, *FRENCH HISTORIANS: NEW HISTORICAL WRITINGS IN TWENTIETH-CENTURY FRANCE* (2010); CHRISTIAN DELACROIX, FRANÇOIS DOSSE & PATRICK GARCIA, *LES COURANTS HISTORIQUES EN FRANCE, XIXE–XXE SIÈCLES* (Galimard 2007) (1999).

191. These radio shows are similar to National Public Radio shows.

192. See generally PASCAL BLANCHARD ET AL., *LA SOCIÉTÉ FRANÇAISE AU PRISME DE L'HÉRITAGE COLONIAL* (2005); BENJAMIN STORA, *LA GUERRE DES MÉMOIRES: LA FRANCE FACE À SON PASSÉ COLONIAL* (2007).

193. See generally PASCAL BLANCHARD & ISABELLE VEYRAT-MASSON, *LES GUERRES DE MÉMOIRES: LA FRANCE ET SON HISTOIRE ENJEUX POLITIQUES, CONTROVERSES HISTORIQUES, STRATÉGIES MÉDIATIQUES* (2008).

194. See generally LAURENCE DE COCK ET AL., *COMMENT NICOLAS SARKOZY ÉCRIT L'HISTOIRE DE FRANCE* (2008).

tion (CNHI), resigned in protest.¹⁹⁵ When schools returned to session in the fall of 2007, the decision by the Ministry of Education to have students read a letter by Guy Môquet, a young communist resistant in WWII writing to his parents the day before his execution by the Germans, caused a media storm about this story and history in general.¹⁹⁶

There are still broad holes in the French memory, such as the ignorance surrounding the late persistence of slavery and colonial realities during the time of the colonial Republic.¹⁹⁷ Another example is the responsibility of the republican government in the Dreyfus affair, in which a Jewish officer having a name with German connotation was accused of treason.¹⁹⁸ Yet another example is the relative ignorance regarding the Republic's responsibility in the establishment of and collaboration under the Vichy regime as a French state, particularly with regard to the state's involvement in the deportation and extermination of 80,000 Jews from or residing in France.¹⁹⁹ The ignorance regarding the violence of decolonization and the deafening silence regarding the Algerian War is another example.²⁰⁰ Today, there is an inability in Republican discourse to account for such a multi-racial society, notably the immigrant population drawn from the Republic's former Empire. There is also an inability to construct a Republican memory in which France's past can be shared by those who live in it today.

195. GÉRARD NOIRIEL, *A QUOI SERT L'IDENTITÉ NATIONALE* 10 (2007); see also COMITÉ DE VIGILANCE FACE AUX USAGES PUBLICS DE L'HISTOIRE, <http://cvuh.free.fr> (last visited Jan. 15, 2011).

196. See generally NICOLAS OFFENSTADT, *L'HISTOIRE BLING-BLING: LE RETOUR DU ROMAN NATIONAL* (2009).

197. See Louise Marie Diop-Maes, *Mémoire de la traite négrière*, *LE MONDE DIPLOMATIQUE* (Nov. 2007), http://www.monde-diplomatique.fr/2007/11/DIOP_MAES/15329. See generally NICOLAS BANCEL, PASCAL BLANCHARD & FRANÇOISE VERGÈS, *LA RÉPUBLIQUE COLONIALE: ESSAI SUR UNE UTOPIE* (2003); PIERRE H. BOULLE, *RACE ET ESCLAVAGE: DANS LA FRANCE DE L'ANCIEN RÉGIME* (2007); SERGE DAGET, *LA TRAITE DES NOIRS: BASTILLES NÉGRÈRES ET VELLÉITÉS ABOLITIONNISTES* (1990); MARC FERRO, *LE LIVRE NOIR DU COLONIALISME, XVI^E-XXI^E SIÈCLE: DE L'EXTERMINATION À LA REPENTANCE* (2003).

198. See *The French & the Dreyfus Affair, 1906: DREYFUS REHABILITATED*, <http://www.dreyfus.culture.fr/en/the-french-and-the-dreyfus-affair> (last visited Jan. 15, 2011). See generally VINCENT DUCLERT, *L'AFFAIRE DREYFUS* (2009).

199. After the foundational study by Robert Paxton as detailed in ROBERT PAXTON, *LA FRANCE DE VICHY* (1972), French researchers, starting with François Bédarida and Jean-Pierre Azéma, have continued examining this topic. See, e.g., MARC OLIVIER BARUCH, *SERVIR L'ÉTAT FRANÇAIS: L'ADMINISTRATION EN FRANCE DE 1940 À 1944* (1997); GÉRARD NOIRIEL, *IMMIGRATION, ANTISÉMITISME ET RACISME EN FRANCE (XIX^E-XX^E SIÈCLE): DISCOURS PUBLICS, HUMILIATIONS PRIVÉES* (2007); HENRY ROUSSO, *LE SYNDROME DE VICHY DE 1944 À NOS JOURS* (1st ed. 1987).

200. For an extensive bibliography, see generally BENJAMIN STORA & MOHAMMED HARBI, *LA GUERRE D'ALGÉRIE 1954-2004: LA FIN DE L'AMNÉSIE* (2004).

This has led to the creation of virulent protest- and identity-based memories.²⁰¹

This explains how even when celebrating sporting exploits of a multi-racial France, the image of which is the national soccer team,²⁰² support for the players of this team can be violently questioned. For instance, at the 2001 France-Algeria soccer match at the Stade de France in Saint-Denis (a working-class sector on the northern edge of Paris that has a large immigrant population), mocking whistling against the national anthem of the Marseillaise was followed by angry screaming and shouting whenever the French players had the ball.²⁰³ The crowd rushed onto the field with Algerian flags because the French team was winning.²⁰⁴ Objects were hurled at the presidential box, hurting a minister.²⁰⁵ Then-President of the Republic, Jacques Chirac, who was in attendance, left the stadium as soon as the whistling started.²⁰⁶ Another example of this was at the France-Morocco soccer match in November 2007 when whistling also disrupted the Marseillaise anthem and French players, and the stadium was covered with Moroccan flags.²⁰⁷ Finally, the France-Tunisia match in October 2008 saw the same disturbances.²⁰⁸

III. ETERNAL FRANCE

Finally, the Republic does not appear to be more solid, as a strong unanimous totem, than *laïcité*. Would Robert Bellah's analysis be insufficient if we adapted it to the French civil religion at the sanctification of the Republic? It indeed remains a last level of the

201. See generally Jean Garrigue, *La laïcité républicaine: une identité française en question 1870–2005*, 4 JOURNAL FRANÇAISE DE PSYCHIATRIE 20 (2007).

202. For example, the winning French team from the 1998 World Cup. See *1998 FIFA World Cup France*, FÉDÉRATION INTERNATIONALE DE FOOTBALL ASSOCIATION (FIFA), <http://www.fifa.com/worldcup/archive/edition=1013/photo/photolist.html#522836> (last visited Jan. 15, 2011).

203. Jérôme Dupuis, Eric Mandonnet & Sébastien-Dekeirel, *Contre-enquête sur un fiasco*, L'EXPRESS, Feb. 14, 2002, available at http://www.lexpress.fr/actualite/sport/contre-enquete-sur-un-fiasco_493945.html.

204. *Id.*

205. *Id.*

206. *Id.*

207. See, e.g., *France-Maroc: La Marseillaise sifflée*, LE POINT, Nov. 16, 2007, available at http://www.lepost.fr/article/2007/11/16/1053365_france-maroc-la-marseillaise-sifflée.html.

208. See Clément Daniez, *Après la Marseillaise sifflée à France-Tunisie, Sarkozy convoque le président de la FFF*, LE POINT, Oct. 15, 2008, available at <http://www.lepoint.fr/actualites-societe/2008-10-15/apres-la-marseillaise-sifflée-a-france-tunisie-sarkozy-convoque/920/0/282596>.

French sacred, yet even more profound, not uprootable, the holy of holies, according to Debray's analysis.²⁰⁹ Is it a "certain idea of France," as General de Gaulle called it?²¹⁰

We arrive here at the deepest level of the French imagination. Of course, it is not because it is the deepest that it is the most operative and will find itself the most effective in overcoming problems of French identity today. But, in this Article trying to explain and reach the core of French identity, the myth of "France" is still what allows the French inhabitants to share a positive identity, when this identity is projected abroad. The image of France vis-à-vis other countries, other cultures, and other civilizations motivates writers and politicians and irrigates diplomatic actions, regardless of the political orientation of the government.²¹¹ It is in this idea of France that the patriotic feeling is rooted, when no one will die or feel love for *laïcité* and few would for the French Republic alone. What are the vessels of this mythic France that engrains itself in the conscience and affections of the French?

A. *The Incantatory Invocation of the Universal*²¹²

In his famous article on the "invariants" of the foreign policy of France, the great French historian of international relations, Jean-Baptiste Duroselle, states the following:

It may seem ridiculous for a nation to speak of gentleness, of wisdom, of a love for pity, of an affinity for those who suffer and, ultimately, of tolerance. Our snobs will mock it. In which, they will be mistaken. It is not certain whether this exists in all countries of the world as to the extent it does in France . . . False

209. Lévy, *supra* note 4.

210. De Gaulle stated as follows:

All my life, I've had a certain idea of France. It was inspired both by feeling and by reason. What is within me influenced me to imagine France as the princess of stories or as the Madonna painted in frescoes, bound for an eminent and exceptional destiny. I instinctively felt that Providence had created her to achieve either exemplary success or extreme disaster. If ever mediocrity were to win, I would feel it a kind of absurd anomaly, imputable to French faults, not to the genius of the country. But also, the positive side of my mind convinces me that France is not really herself but at the first rank, that only great enterprises are likely to fulfil its people's potential, and that our country, as it is among all the others, must, under pain of lethal danger, aim high and stand tall. To me, in sum, France could not be France without greatness.

1 CHARLES DE GAULLE, MÉMOIRES DE GUERRE 1 (1954) (translated by author from the French).

211. See Stanley Hoffman, *La France face à son image*, 51 POLITIQUE ÉTRANGÈRE 1, 25-33 (1986).

212. This Part follows the analysis of Jean-Jacques Roche's essay. JEAN-JACQUES ROCHE, LA FRANCE ET L'UNIVERSEL (2000), available at <http://www.diplomatie.gouv.fr/fr/IMG/pdf/FD001172.pdf>.

Naturally, every country also has its legions of barbarians, and one will find such horrible burrs on the French side as well. Nonetheless, Napoleon is not Hitler. Colonization was the result of an imbalance, and not an evil in itself. We went beyond the seas, and we still do, for example with “doctors without borders.” We always orient our policies in a trend that could be called “Third Worldist” That our foreign policy is geared towards the long term protection of the weak, towards basing many of its attitudes on pity, is one “invariant” that the spontaneous will of French majorities imposes easily on its leaders, who ask for no more.²¹³

Duroselle rightly notes that the invocation of the universal in French diplomatic matters was not just rhetoric, but also reflected a belief shared by all politicians, who acted as spokesmen of a nation convinced of its uniqueness.²¹⁴ It might certainly be added that French leaders yield so readily to the enticements of the universal because foreign policy is the last area in which they can carry out their convictions without being tied down by domestic politics. France sees itself as even more universalist because, since the Enlightenment, it feels it has maintained a monopoly on the creation of universal values in diplomacy and the media. Faced with globalization, a certainty emerges that wavers between immodesty and pride of station, between the traditions of the state and the aristocracy, between art of distinguished manners and the visceral attachment to a cultural and social model considered the most efficient in terms of humanism and respect for man.

At a time when power is measured in part by a country’s image in the world, according to former Foreign Minister Hubert Védrine, the Word of French rulers represents the collective direction of a multiform lifestyle.²¹⁵

B. *Grandeur*

“Thanks to them, France, yesterday a soldier of God, today a soldier of humanity, will always be a soldier of ideals.”²¹⁶

213. Jean-Baptiste Duroselle, *Les invariants de la politique étrangère de la France*, 51 POLITIQUE ÉTRANGÈRE 1, 22 (1986).

214. *Id.*

215. HUBERT VÉDRINE, RAPPORT POUR LE PRÉSIDENT DE LA RÉPUBLIQUE SUR LA FRANCE ET LA MONDIALISATION 4–5 (2007), available at http://medias.lemonde.fr/mmpub/edt/doc/20070905/951341_rapport_d-hubert_vedrine.pdf.

216. George Clemenceau, Prime Minister and Minister of War, Statement Announcing to the House of Deputies the Terms of the Armistice Signed that Morning at Rethondes (Nov. 11, 1918), available at http://www.assemblee-nationale.fr/histoire/intervention_clemenceau.asp.

French immodesty is a historical inheritance. The solemnity of Clemenceau in the Chamber of Deputies in November 11, 1918, and his sacralization of the *Poilus* mission (nickname of the soldiers of the Great War) was explained by the conviction that the victory of France was synonymous with the victory of righteousness.²¹⁷ Little did it matter for our purposes that the inculcation of Germany regarding the responsibility for the war and the disastrous peace management had little to do with our concerns over justice. By constantly referring to noble principles, “France” is obviously at risk of being especially disappointing when its conduct is out of sync with its professed faith. Nevertheless, Clemenceau’s message was part of a long history demonstrating France’s willingness to put its destiny under the banner of the ideal, integrating its two consecutive aspirations.

1. Resistance to hegemony

At the origins of the theory of sovereignty, in the early fourteenth century, the jurists of King Phillip the Fair excelled at giving a universal dimension to the claims against Pope Boniface VIII over the kingship of France.²¹⁸ *La Maison de France* (“The French Crown”) had become sufficiently strong to challenge papal pretensions of using divine authority to subordinate royal authority.²¹⁹ Gallicanism, as this French political theory is called,²²⁰ set itself against the primacy of the Church on two points. First, it affirmed the separation of temporal and spiritual matters.²²¹ Second, as a corollary of this first point, was the principle of the autonomy of the King of France, that he was “emperor in his kingdom.”²²²

The influence of France was also decisive in the second stage of formulating the theory of sovereignty, from the mid-sixteenth century. In a period marked by the territorial formation of France, the

217. *Id.*

218. See generally AGOSTINO PARAVICINI BAGLIANI, BONIFACE VIII: UN PAPE HÉRÉTIQUE? (2003); JEAN FAVIER, PHILIPPE LE BEL (Fayard 1978) (1998); CHARLES T. WOOD, PHILIP THE FAIR AND BONIFACE VIII: STATE VS. PAPACY (Charles T. Wood ed., 1967).

219. See Philippe Strumel, *La Pragmatique Sanction de Bourges à l'origine de la laïcité française? Contribution à l'histoire du gallicanisme*, 3 ANNUAIRE DROIT ET RELIGION 224–25 (2008).

220. See Emile Poulat, *Un héritage répudié, le gallicanisme*, 4 ANNUAIRE DROIT ET RELIGION 249–53 (2009).

221. See *id.* at 250.

222. See *id.* “Emperor in his kingdom” is a royal adage created in 1283 by Philippe de Beaumanoir, Bailli du Beauvaisis [representative of royal justice in Beauvais city in the County of Picardy], in his *Coutumes du Beauvaisis*. See generally Jacques Krynen, *L'Empire du roi: Idées et croyances politiques en France: XIIIe–XVe siècles* (1993), in whose third part is an analysis of this adage, among others created by royal legists.

royal family worked to formalize a doctrine that justified its claims of inheritance against Charles V and the Germanic Holy Roman Empire.²²³ The French intervention in favor of the Protestant princes of the Empire aimed primarily to push the boundaries of the East to Metz, Toul, and Verdun, an acquisition recognized in the Treaty of Munster of 1648 (Treaty of Westphalia)²²⁴ which ended the Thirty Years War.²²⁵ Nonetheless, as noted by Henry Kissinger in *Diplomacy*, Kingdom of France was the first state, “as early and as fully as possible” to replace the nostalgia for universal monarchy with the new principles of national interest and the balance of forces that would serve as a cornerstone for the new Westphalian order.²²⁶

2. Messianism

A taste for messianism is again a distant historical legacy, from when monarchical France, despite its many conflicts in opposition to the papacy, was eager to reclaim its image of “eldest daughter of the Church” for its own benefit.²²⁷ The sword of Roman Christianity, France was able to skillfully integrate its divine mission into the more concrete sphere of diplomacy.²²⁸ In declaring himself the protector of English Catholics, Louis XIV was above all concerned with maintaining the balance in Europe.²²⁹ By going to the help of Maronite Lebanese, victims of abuses by Druze supported by the Grand Vizierate of the Ottoman Empire, the mission of General Beaufort d’Hautpoul (1860) prepared for the future mandate over Greater Syria that would permanently establish the French presence in the region.²³⁰ The attachment claimed to Christianity was thus perpetuated from the monarchy to the Republic with the procession of one hundred deputies to Paray-le-Monial in May 1873

223. See Strumel, *supra* note 219, at 224–73.

224. Peace Treaty Between the Holy Roman Emperor and the King of France and Their Respective Allies, Oct. 24, 1648, available at http://avalon.law.yale.edu/17th_century/westphal.asp.

225. See Klaus Malekte, *Les Traités de Paix de Westphalie et l'organisation politique du Saint-Empire romain germanique*, 53 XVII^e SIÈCLE 113, 114 (2001); Jörg Wollenberg, *Richelieu et le système européen de sécurité collective*, 53 XVII^e SIÈCLE 99, 100 (2001).

226. HENRY KISSINGER, *DIPLOMACY* 48 (Simon & Schuster 1994); see also *id.* at 56–78.

227. René Rémond, *La fille aînée de l'Eglise*, in *LES LIEUX DE MÉMOIRE*, *supra* note 44, at 4321–51.

228. See generally ALEXANDRE YALI HARAN, *THE LYS ET LE GLOBE: MESSIANISME DYNASTIQUE ET RÊVE IMPÉRIAL EN FRANCE À L'AUBE DES TEMPS MODERNES* (2000).

229. See generally CHARLES BOUTANT, *L'EUROPE AU GRAND TOURNANT DES ANNÉES 1680: LA SUCCESSION PALATINE* (1985).

230. See HENRY LAURENS, *ORIENTALES I*, at 255–71 (2004).

consecrating France to the Sacred Heart.²³¹ It is not surprising, therefore, that General de Gaulle had thought he heard every bell in Latin America ringing during the Liberation of Paris.²³²

Given such an influential mythology, what characterized the outlook and ideals of Republican France? It would have given the world modern institutions. The English Revolution and the parliamentary system of the Channel would be forgotten. American Independence and the Constitution of 1776 would be ignored. The French Revolution is a unique reference and its Declaration has an obvious universal dimension. Today, France still considers its mission to be the establishment of standards of “good governance” and its social model—extended to Europe, it is true—is “its contribution to globalization.”²³³ In its updated form is still found, in fact, the same concern as that of Jules Ferry, then—Minister of Foreign Affairs, who expatiated in his famous speech of July 28, 1885 (during a parliamentary debate on the conquest of Tonkin), on the rights and duties of “superior races.”²³⁴ It would be unfair to judge these remarks according to modern mores. Jules Ferry was the voice of an era dominated intellectually by positivism. This movement postulated that the point of industrial society was to enable all peoples to move from “the metaphysical age,” characterized by war, to the “scientific age,” during which the rational exploitation of nature was to replace war as the primary occupation of mankind.²³⁵ The result was that industrial society was beneficial to humanity and that progress was measured by the “Westernization of the world.”²³⁶ This state of mind, backed by geographic

231. See François Loyer, *Le sacré cœur de Montmartre*, in LES LIEUX DE MÉMOIRE, *supra* note 44, at 4253–69; René Rémond, *supra* note 227, at 4340.

232. ALAIN PEYREFITTE, C'ÉTAIT DE GAULLE 283–84 (1994) (noting that de Gaulle explained at that time to Minister A. Peyrefitte, his close confident, why France was the “Light of the World”); see also *id.* at 279–98 (for similar declarations).

233. Jacques Chirac, President of France, Discours prononcé à l'occasion de la XIXe conférence des chefs d'état de France et d'Afrique [Speech on the Occasion of the XIX Conference of the Heads of the State of France and Africa]; see also ROCHE, *supra* note 212.

234. Jules Ferry, Discours prononcé à la chambre des députés: Les fondements de la politique coloniale [Speech at the Chamber of Deputies: The Foundations of Colonial Policy] (July 28, 1885), available at <http://www.assemblee-nationale.fr/histoire/Ferry1885.asp>.

235. See generally AUGUSTE COMTE, COURS DE PHILOSOPHIE POSITIVE (BookSurge Publishing 2001) (1830).

236. See Dominique Martin et al., *The Sociology of Globalisation*, 21 INTERNATIONAL SOCIOLOGY 499, 499–521 (2006). See generally DOMINIQUE MARTIN ET AL., LES MÉTAMORPHOSES DU MONDE: SOCIOLOGIE DE LA MONDIALISATION (2003) (synthesizing French and English bibliography about this contemporary and very negative term used by social science researchers to describe and define the spreading steps from ethical and liberal occidental values to technical and capitalistic ones, imposing a one-way cultural and economical world model).

companies and amplified by expanded missionary work, indubitably nourished the ideas of the heralds of humanist colonization, such as General Lyautey, “the great civilizer.”²³⁷ It also served as a screen for the economic appetites and power grabs of legions of brutes, to whom Jean-Baptiste Duroselle referred, and such truths were violently denounced by deputies Clemenceau, Perrin, Maigne, Vernhes, Fabre, and others in the same parliamentary debate of 1885 on the imperialist policy of the Third French Republic.²³⁸

C. *French Language and Culture*

The quest for the universal and for grandeur is the principal reason that the French language, like Latin in its time, became an obligatory imperial language at the end of the nineteenth century, imposed upon every area that had become French either recently or in the long past, and on the colonial Empire.²³⁹ In 1880, the Third Republic was in place, France was still rural, sewn with villages centered on themselves, and the majority of the populace was not classic French-speaking.²⁴⁰ The fathers of the Republic inculcated into this France of the countryside, of villages, of diverse dialects and customs, their idea of a unitary nation, indivisible and powerful, at the same time as they pushed for adhesion to the republican regime, as they considered and embodied it.²⁴¹ Alongside obligatory military service for men, it was first the schools that were charged with fashioning a national identity, creating new Frenchmen, patriotic and respectful of the new order.²⁴²

237. General Hubert Lyautey (1854–1934), distinguished as Marshall of France in 1921, was Resident-General in Morocco in 1912 and Minister of the War during the First World War. He served in Algiers, Indochina, Madagascar, and Morocco. He wrote a famous article in the Parisian review *La Revue des deux mondes*, in 1891, entitled *La fonction sociale de l'officier*, and recently re-edited as *MARÉCHAL LYAUTEY, LE RÔLE SOCIAL DE L'OFFICIER* (2009).

238. See Ferry, *supra* note 234.

239. See generally MIREILLE HUCHON, *HISTOIRE DE LA LANGUE FRANÇAISE* (2002); MARIE-JOSÉE DE SAINT-ROBERT, *LA POLITIQUE DE LA LANGUE FRANÇAISE* (2000).

240. In a 1999 report, Bernard Cerquiglini, the Director of the French Language Institute, counted seventy-five languages in France today and its overseas territories. See generally BERNARD CERQUIGLINI, *DIRECTEUR DE L'INSTITUT NATIONAL DE LA LANGUE FRANÇAISE, RAPPORT AU MINISTRE DE L'ÉDUCATION NATIONALE, DE LA RECHERCHE ET DE LA TECHNOLOGIE, ET À LA MINISTRE DE LA CULTURE ET DE LA COMMUNICATION* (1999).

241. See DE SAINT-ROBERT, *supra* note 239.

242. Mona Ozouf & Jacques Ozouf, *Le Tour de la France par deux enfants*, in *LES LIEUX DE MÉMOIRE*, *supra* note 44, at 277–302.

The fathers of the Republic were super-patriots, profoundly injured by the defeat in the Franco-Prussian War of 1870–1871.²⁴³ Like every liberal and republican elite in the nineteenth century, they bore a haughty, messianic image of France in their minds. “France is superior as a dogma and as a religion,” was a chapter title in the famous historian Jules Michelet’s little book *Le Peuple* (“The People”).²⁴⁴ Cosmopolitan types, carriers of a secondary and university “culture,” sincerely thought that this culture was superior to that of country folk and later to those of the colonies.²⁴⁵ It was necessary to civilize the “barbarians” by nationalizing them.

The schools were called upon to make the little peasants who spoke *patois* into Frenchmen.²⁴⁶ It was indispensable, in Republican thinking, to entrust to the schools the mission of teaching a common language. But, the founders of the republican schools, obsessed with the idea of unity and full of pride for the French language, which had been the language of eighteenth century European courts, added to that linguistic mission the task of eradicating the other languages spoken in the Republic: Breton, Corsican, Basque, Occitan, and Flemish.²⁴⁷ They reprised a mission set by the revolutionaries noted in the report of the Abby Grégoire,²⁴⁸ but which had never been set in motion. Certain regional languages almost died, such as Provençal, while others on the fron-

243. See generally LAURENCE TURETTI, QUAND LA FRANCE PLEURAIT L’ALSACE-LORRAINE – LES PROVINCES PERDUES AUX SOURCES DU PATRIOTISME RÉPUBLICAIN, 1870–1914 (2008).

244. JULES MICHELET, LE PEUPLE 278 (Paul Viallanex ed., Flammarion 1993) (1846). Jules Michelet (1798–1874) is one of the most famous documentarians of French history. His manner of explaining the ineluctable destiny of the country makes him a father of the Republican legend. His monumental nineteen-volume *Histoire de France* covers the sweep of French history from the earliest Celtic tribes to Napoleon’s Empire. JULES MICHELET, HISTOIRE DE FRANCE (2008). Coincidentally, Jules Michelet was the first historian to give Joan of Arc her prominent place in the French collective memory.

245. See Ferry, *supra* note 234.

246. See DE SAINT-ROBERT, *supra* note 239, at 55–80.

247. A true politics of *patois* eradication, led by Deputy Bertrand Barère de Vieuzac, existed at the time of the Revolution and ended with the Reign of Terror in 1794. This politics remained nonexistent until the Third Republic, which saw the linguistic challenge of 25 million out of 28 million new French citizens unable to speak or follow a conversation in French. See generally JEAN-PIERRE THOMAS, BERTRAND BARÈRE: LA VOIX DE LA RÉVOLUTION (1989).

248. See generally MICHEL DE CERTEAU, DOMINIQUE JULIA & JACQUES REVEL, UNE POLITIQUE DE LA LANGUE, LA RÉVOLUTION FRANÇAISE ET LES PATOIS: L’ENQUÊTE GRÉGOIRE (1975); Henri-Baptiste Grégoire, *Documents inédits (1790–1794)*, in LETTRES À GRÉGOIRE (A. Durand & Pedone-Lauriel eds., Pédone 1969) (1880); ABBÉ HENRI GRÉGOIRE, RAPPORT SUR LA NÉCESSITÉ ET LES MOYENS D’ANÉANTIR LES PATOIS ET D’UNIVERSALISER L’USAGE DE LA LANGUE FRANÇAISE (Arts et traditions rurales 1995) (1794).

tiers resisted, such as Corsican, Breton, Alsatian, and Creole.²⁴⁹ But generally, the relationship of the French to their common language today still remains sacred.²⁵⁰

Through the French language, cultural policy is now the peculiar domain through which the French diplomatic outlook maintains its initiator function. The commitment of French diplomacy to French culture is a constant that goes back to the Revolution. Since the merger of the Ministry of Foreign Affairs and Cooperation, 35 percent of the budget for external activities has been devoted to its promotion.²⁵¹ At the same time, through its exceptional meshing of cultural institutions, French alliances, academic institutions, and archaeological missions, France promotes its culture and values. The promotion of French books abroad and the support devoted to French cinema in the most remote cities in the world are constants of this ministry that is as French as the Ministry of Culture.

*La Francophonie*²⁵² is certainly one of the most representative institutions of this ambition. Appearing in 1962 in *Esprit* magazine, it has been repeatedly institutionalized in order to provide, in the words of Leopold Senghor, “an integral humanism to weave around the world, a symbiosis of sleeping energies of all continents, all races, which are awakened each by another.”²⁵³ Institutionalized within the French administrative structures (created in 1984 from the High Council of Francophonie, Secretary of State near the Prime Minister in 1986, delegated Minister for la

249. Presently, regional languages in France are protected by several laws and some are even taught at school. However, the French language enjoys constitutional protection as the unique language of the Republic. Loi 92-554 du 25 juin 1992 [Law 92-554 of June 25, 1992], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE], available at <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000723466&dateTexte=>

250. See Marc Fumaroli, *Le génie de la langue française*, in LES LIEUX DE MÉMOIRE, *supra* note 44, at 4623–85 (the title of this work, translating to “the genius of the French language,” is a French idiomatic expression).

251. See ROCHE, *supra* note 212; *Coopération Culturelle et Médias*, FRANCE DIPLOMATIE, http://www.diplomatie.gouv.fr/fr/actions-france_830/politique-artistique_1031/index.html (last visited Jan. 15, 2011) (French ministerial presentation of French cultural politics).

252. “La Francophonie” means two things. First, the term encompasses a group of states and governments that have the French language in common or want to promote French culture. Second, the term stands for a promotional component of French foreign policy. The concept was invented by Leopold Senghor (1906–2001), first President of Senegal (1960–1980).

253. Leopold S. Senghor, *Le français: Langue de culture*, *ESPRIT*, Nov. 1962, at 837–44, available at <http://www.esprit.presse.fr/archive/review/article.php?code=32919> (translated by author from the French).

Francophonie), it was also transformed in the 1970s into an international organization with a parliamentary assembly, a covenant, annual summits of the seventy heads of French-speaking states, and a general secretary, Abdou Diouf, former President of Senegal, who was named to the post in 2002.²⁵⁴

D. *The "Power of Influence"*

This diversification of instruments of influence is part of a resolutely political strategy to struggle against hegemonies while preserving cultural specificities, as evidenced by today's theme of "cultural exception," developed since the Uruguay Round concerning the defense of French cinema.²⁵⁵ Repeated and amplified by presidential diplomacy, this theme led Jacques Chirac to admit in Hungary on January 16, 1997: "beyond the French, beyond Francophonie, [we must be] militants for multiculturalism in the world to fight against the suffocation of a sole language for various cultures that make up the richness and dignity of mankind."²⁵⁶ Once again, French exceptionalism, couched in terms of culture, allows Parisian diplomacy to transform the defense of specific interests, such as the preservation of the film industry and the defense of the French language in international institutions, into a symbol of a broader claim by which France is an advocate of the cause of the weak against the ambitions of the mighty.²⁵⁷

Finally, dramatic gestures (like the famous speech of Dominique de Villepin at the U.N. Assembly refusing military action against the Iraq of Saddam Hussein on February 14, 2003)²⁵⁸ attest to the constant propensity to dramatize the diplomatic stage in order to amplify the role that France gives itself. According to Professor Jean-Jacques Roche, "rhetoric is the instrument of a policy whose

254. See *Qui sommes-nous?*, ORGANISATION INTERNATIONALE DE LA FRANCOPHONIE, <http://www.francophonie.org/Qui-sommes-nous.html> (last visited Jan. 15, 2011).

255. See *Cinema français: le retour*, FRANCE DIPLOMATIE, http://www.diplomatie.gouv.fr/fr/archives-label-france_5343/les-numeros-label-france_5570/lf44-cinema_11343/cinema-francais-retour_11344/lutte-salles_21687.html (last visited Jan. 15, 2011).

256. ROCHE, *supra* note 212, at 397–98 ; see also Jacques Chirac, President of France, Discours lors de l'inauguration du Pavillon des Sessions au Musée du Louvre [Speech at the Inauguration of the Pavillon des Sessions at the Louvre Museum] (Apr. 13, 2000); Jacques Chirac, President of France, Discours sur l'inauguration du Musée du quai Branly [Speech on the Inauguration of the Musée du quai Branly] (June 6, 2006), available at <http://www.ambafrance-at.org/spip.php?article2066>.

257. ROCHE, *supra* note 212, at 396.

258. See Dominique de Villepin, Discours à l'ONU (Feb. 14, 2003), available at <http://2villepin.free.fr/index.php/2007/02/14/305-discours-de-dominique-de-villepin-a-l-onu-le-14-fevrier-2003>.

stated intentions count more than practical applications.”²⁵⁹ Once again, France strongly declared its role in preparing for the future by taking advantage of its status as a “globally influential power” in the words of former Foreign Minister, Hubert Védrine.²⁶⁰ Movement in favor of disarmament, human rights diplomacy, and cultural policy are the ideal areas for this practice.

E. *Love of Country*

The ideal place to conclude this panorama, it seems, is at this last image: that of universal France—great in its history, its spirit of resistance, its generosity, and in a word, proud of its “difference” in its outlook toward the poor of the world, to which French patriotism would find itself drawn today. This sentiment has experienced disappointment, it has been borne by a legendary history, petrified by the horrors of World War I, and it has been reinvigorated by the myth of the Resistance to Nazi occupation. Its content has changed significantly since the time of its revolutionary birth and the era of the great nation conquering Europe.²⁶¹ But what remains of it today is that the “endangered Fatherland,”²⁶² several times saved through suffering and sacrifice, must always be preserved. Moreover, in the context of the troubles of recent years, the French Army is now regaining the interest and esteem of a population from which it had been relatively lost.²⁶³ Two dangers now lurk, pushing President Nicolas Sarkozy to propose a “policy of civi-

259. ROCHE, *supra* note 212, at 396.

260. Hubert Vedrine, *La France Est-Elle Encore Un Pays Influent?*, LE FIGARO, Apr. 10, 2007, available at http://www.hubertvedrine.net/index.php?id_article=244.

261. See generally JEAN LESTOCQUOY, *HISTOIRE DU PATRIOTISME EN FRANCE: DES ORIGINES À NOS JOURS* (1968); MARIE-MADELEINE MARTIN, *HISTOIRE DE L'UNITÉ FRANÇAISE: L'IDÉE DE PATRIE EN FRANCE DES ORIGINES À NOS JOURS* (Presses Universitaires de France 1982) (1949).

262. The first Proclamation of “endangered Fatherland” was made by the French Assembly on July 10, 1792, after several defeats against Austria, to justify the obligatory conscription of 50,000 citizens. See generally ALAN FORREST, *THE LEGACY OF THE FRENCH REVOLUTIONARY WARS: THE NATION-IN-ARMS IN FRENCH REPUBLICAN MEMORY* (2009).

263. See Barbara Jankowski, *Les relations armée-société en France*, 125 *POUVOIRS* 93, 93–107 (2008).

lization”²⁶⁴ as well as a “Mediterranean Union.”²⁶⁵ Faced with a panicked and immoral globalization, the country must be protected from the degradation of its excellence, its socio-cultural originality, and its natural and historical privileges. France must again return to the battle cry of neutrality and must resist the religious tidal wave engulfing the world (from all sides and especially from the Islamist side). To French analysts, this wave symbolizes a return to the archaic and represents an extremely serious historical regression.²⁶⁶ The French position of distancing itself from this avalanche of religious revendications to prefer intercultural dialogue exemplifies this analysis.²⁶⁷

1. Patriotic education under the Third Republic (1871–1940)

The metamorphoses of French patriotism mimic the saga of the Republic: difficult roots, offset by a mythical overestimation. In the late nineteenth century, patriotism took root largely through the use of the French language, “Republican values,” and the establishment of secularism, as relayed by the schools. The requirement to teach history in secular schools had a purpose to pass on a love of country, by means of a representation of the past centered uniquely on France.²⁶⁸ *Le Petit Lavoisier*²⁶⁹ was an exemplary manual of the republican school system that would serve to tell the national story well into the 1960s; its construction of the past was

264. This policy is defined as rendering pride to the French, giving them back their country’s rank in the world to serve people (especially women and persecuted people), incarnating universal values, building inside new school systems and convivial cities, moralizing international capitalism, and focusing politics on justice, diversity and good integration, being led by a taste of adventure and respect. Bruno Jeudy, *Nicolas Sarkozy veut réformer sans brutalité*, LE FIGARO, Jan. 1, 2008, available at <http://www.lefigaro.fr/politique/2008/01/01/01002-20080101ARTFIG00003-nicolas-sarkozy-veut-reformer-sans-brutalite-.php>.

265. The Mediterranean Union is another of Sarkozy’s ideas. It was partially carried out by the partnership covenant signed between forty-three Mediterranean countries on July 13, 2008 in Paris. See *Union of the Mediterranean*, BUS. RECORDER, Jul. 16, 2008.

266. See the reflections of Michel Guillou, president of Leopold Senghor’s la Francophonie network and director of the Institut pour l’étude de la francophonie et de la mondialisation, about the coming third age of *la Francophonie*, which is dedicated to promote a universal spirit of tolerance without religious competition. See Michel Guillou, *La troisième francophonie: un acteur dans la mondialisation*, FORUM POUR LA FRANCE (Aug. 12, 2009), <http://www.forumpourlafrance.org/spip/La-troisieme-francophonie-un-acteur-dans-la-mondialisation-par-Michel-Guillou.html>.

267. See generally YVES MONTENAY, LA LANGUE FRANÇAISE FACE À LA MONDIALISATION (2005).

268. See generally BRIGITTE DANCEL, ENSEIGNER L’HISTOIRE À L’ÉCOLE PRIMAIRE DE LA III^e RÉPUBLIQUE (1996).

269. See Nora, *supra* note 115, at 239–77.

destined to stir up patriotism. Some of the figures who were part mythic and who symbolized heroism and patriotic sacrifice include: Vercingétorix, Joan of Arc,²⁷⁰ the little Barat (a revolutionary child murdered by the reactionary populists of the Vendée region), and the soldiers of the Great War (World War I).²⁷¹ France has no beginning; it is inscribed in a past so distant, so legendary, and pre-embodied in a Gaul that is mysteriously always already there. “Our country was once called Gaul, its inhabitants the Gauls.”²⁷² In this manner, France—the hexagonal territory—acquires a sacred dimension, the construction of which is no longer the result of conquests but a fact of manifest destiny.²⁷³ From this perspective, the loss of Alsace-Moselle was a sacrilege. Algerian soil on the North African coast, once declared part of France, also became the object of a bitter struggle, and not merely a symbolic one.

2. Patriotic commemorations

From this perspective, World War I (called “The Great War” in French) and World War II are both viewed as the biggest sacrifices ever asked of the French population to save the *Patrie*. Their memory is constantly renewed by books, films, public debates, and new polemics. The commemoration of November 11, the date of World War I’s Allied armistice with Germany, is now the French Memorial Day for the war’s dead.²⁷⁴ May 8, also a holiday, is in remembrance of the defeat of Nazism by the grace of the Allies and the hope of an ever free and democratic country in an ever free and democratic Europe.²⁷⁵ On these days, all French cities conduct public celebrations in front of the *Monument aux morts* (“monuments for the dead”) that exist everywhere, even in the smallest villages, in the presence of their major and municipal

270. See Michel Winock, *Jeanne d’Arc*, in *LES LIEUX DE MÉMOIRE*, *supra* note 44, at 4427–73.

271. Antoine Prost, *Verdun*, in *LES LIEUX DE MÉMOIRE*, *supra* note 44, at 1755–80.

272. These are the first words of the first lesson on French history in the school manuals of the Third Republic. Regarding French historians’ interest on Gallic History since the nineteenth century, see Krystof Pomian, *Francs et Gaulois*, in *LES LIEUX DE MÉMOIRE*, *supra* note 44, at 2245–2300.

273. Eugen Weber, *L’Hexagone*, in *LES LIEUX DE MÉMOIRE*, *supra* note 44, at 1171–90.

274. See *SECRETARIAT GÉNÉRAL POUR L’ADMINISTRATION, MINISTÈRE DE LA DÉFENSE, LE 11 NOVEMBRE: UN JOUR-MÉMOIRE*, available at http://www.ac-nancy-metz.fr/Academie/Esprit_defense/11novembre.pdf.

275. Initially adopted as a day of commemoration by Loi 46-934 du 7 mai 1946 [Law 46-934 of May 7, 1946], *JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE]*, May 8, 1946, pp. 7885–86, its status as a national holiday was confirmed by Loi 53-225 du 20 mars 1953 [Law 53-225 of Mar. 20, 1953], *JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE]*, Mar. 21, 1953, pp. 2697–98.

administration and other official representatives, including military and educational ones.²⁷⁶ Children are invited to put flowers in front of public monuments, and the Patriotic song “La Marseillaise” ends the ceremony.²⁷⁷ In Paris, a specific ceremony commemorates, in the presence of the President of the Republic, the entombment of the Unknown Soldier under the Arc de Triomphe on November 11, 1920.²⁷⁸ For the first time ever, in 2008, President Nicolas Sarkozy celebrated November 11 at the ossuary of Duauumont (where 130,000 of the 300,000 Verdun Battle casualties are buried) far from Paris.²⁷⁹ He paid homage to all soldiers of World War I, including Germans, in the name of peace.²⁸⁰

May 8 was voted as an official celebration of the Allied victory in 1953 and this status was for a while abolished by President Valéry Giscard d’Estaing, because of the French-German reconciliation.²⁸¹ But, President François Mitterrand declared May 8 as a national commemoration and a day off in 1981.²⁸² This day celebrates both the Allied victory for freedom and democracy and the French resistance during World War II.²⁸³ It is also impossible to conclude these very patriotic commemorations without D-Day on June 6, the date of the first great Allied disembarkment in Normandy.²⁸⁴ On this day, French people celebrate the Allied troops and their brotherhood in particular, and try to thank them for the possibility they offered to the French Resistance and the French people of sharing the pride of liberation.²⁸⁵

276. See Antoine Prost, *Les monuments aux morts, culte républicain? Culte civique? Culte patriotique?*, in LES LIEUX DE MÉMOIRE, *supra* note 44, at 199–223.

277. See Michel Vovelle, *La Marseillaise*, in LES LIEUX DE MÉMOIRE, *supra* note 44, at 107–51.

278. Entombment was decided unanimously by the Parliament. See ASSEMBLÉE NATIONALE, LES DÉPUTÉS DE LA XII^E LÉGISLATURE, SÉANCE DU LUNDI 8 NOVEMBRE 1920 (1920), available at http://www.assembleenationale.fr/histoire/guerre_14-18/seance_08111920.asp.

279. See CARINE BOBBERA, MINISTÈRE DE LA DÉFENSE, UN 11 NOVEMBRE SOUS LE SIGNE DE L’EUROPE, EUROPE DE LA DÉFENSE (2010).

280. See *id.*

281. See *Le traité de l’Élysée*, ARCHIVES DIPLOMATIQUES, <https://pastel.diplomatie.gouv.fr/editorial/archives/dossiers/elysee/index.html> (last visited Jan. 15, 2011).

282. See Loi 81-893 du 2 Octobre 1981 [Law 81-893 of October 2, 1981], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE], Oct. 2, 1981, pp. 2685–96.

283. See *id.*

284. See Loi 47-884 du 21 mai 1947 [Law 47-884 of May 21, 1947], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL GAZETTE OF FRANCE], May 22, 1947, pp. 4701–03.

285. See *id.*

3. The cult of the Resistance

The French have a paradoxical relationship with their history: a proud, often mythologized past, they live in the present with memories of bitter defeats (1815, 1871, 1940, 1954, 1962 . . .). The cult of the Resistance was built around General de Gaulle, who led the French army and afterward the general populous to rally around the call of London from June 18, 1940, while participating in a collective catharsis intended to liberate an entire people of the trauma of collaboration with the Nazi army and government.²⁸⁶ Given the attitude so unworthy of the French state during the dark years of German occupation, this therapy, which allowed time to postpone the necessary self-examination, may seem shocking. Sustained by large collective projects, to which the public is committed recklessly and without concern for profitability (like Concorde plane), it lends, from an outside perspective, the image of an arrogant France. This therapy, however, demonstrates an invariable political will of a premeditated denial, a denial of fatalism, a denial of decline, a rejection of external hegemonies.

4. Military and nuclear independence

According to Jean-Jacques Roche, military independence, technological autonomy, and weapons programs that are either costly or irrelevant to the country's actual capabilities in the end, all attest to the need to recover and preserve greatness, heritage of the behavior of another age that continues to motivate political action and meets with the approval of the population.²⁸⁷ Further back in history, the development of a fleet of galleys by Prime Minister Richelieu and later by Louis XIV in the seventeenth century was characteristic of this practice. Weapons that they know had become obsolete since the Battle of Lepanto in 1571, seventy years earlier, these vessels were unable to reach the high seas and were indeed very costly.²⁸⁸ The sumptuously decorated galleys nevertheless enabled Louis XIV to ensure his supremacy in the Mediterranean after the nautical apotheosis of Toulon in 1688.²⁸⁹ Without firing a shot, and by the simple exhibition of these luxury ships—

286. See *DICIONNAIRE HISTORIQUE DE LA RÉSIDANCE* 826 (François Marcot ed., 2006). This book nevertheless shows that the French Resistance was not a post-war myth but played a substantial part in ending the Second World War once it gained Allied support.

287. ROCHE, *supra* note 212, at 395.

288. See André Zysberg, *Les galères de France sous le règne de Louis XIV: Essai de compatibilité globale*, in MARTINE ACERRA, JOSÉ MERINO & JEAN MEYER, *LES MARINES DE GUERRE EUROPÉENNES: XVII^e –XVIII^e SIÈCLES* 415, 415–44 (1998).

289. See *id.*

without any other purpose—France managed to earn the respect and recognition of its rank, which was first.

It is not so different with nuclear weapons. Admitting in the second volume of his memoirs that he never intended to engage in a nuclear attack, Valéry Giscard d'Estaing implicitly recognized that the French atom responded more to considerations of prestige than of security.²⁹⁰ The position of François Mitterrand in favor of implementing American Euromissiles confirms, *a posteriori*, the will to put an instrument whose military value was doubtful to service of a political will, as the president admitted the need for a U.S. nuclear umbrella under whose shelter French strategy could be deployed, in its weaknesses and its strengths.

Thus, even if this country had never renounced its right to acquire the most modern weapons despite its small size and its inclusion in a much larger geopolitical area, the international power projection of France is considered primarily by its need for symbolic influence.²⁹¹ General de Gaulle thus forged the concept of “high policy,” comparable to the soft power of Joseph Nye, “as France is no longer a major power, if it has no high policy, it will be nothing.”²⁹² Undoubtedly, the concept of “high politics” is a response to the concept of *soft power* developed by R. Marshall Singer (which prefigured the work of Nye), when the author noted that “power depends as much if not more, on the ability to attract as it depends on the ability to coerce.”²⁹³ In contrast to the Fourth Republic, which put out an original policy (European integration, launch of French nuclear program, rapprochement with Germany) without understanding the importance of communication, the Fifth French Republic exerted as much energy to promote a singular diplomacy as to explain its orientation. De Gaulle’s rhetoric was “the shield and the flag”²⁹⁴ of a foreign policy that was supposed to be the instrument for the identification of a nation and the expression of a state tradition. An advocate of a humanistic conception of history, French diplomacy came to the election of

290. VALÉRY GISCARD D'ESTAING, *LE POUVOIR ET LA VIE* 210 (1991). This was not General De Gaulle’s opinion. De Gaulle not only believed that French nuclear weapons were a question of prestige but also that they were the best means in Europe to maintain equilibrium and avoid threats by the Soviets. SERGE BERSTEIN, *THE REPUBLIC OF DE GAULLE, 1958–1969*, at 167–70 (Cambridge Univ. Press 1993) (1989).

291. See ROCHE, *supra* note 212, at 405–06.

292. PEYREFITTE, *supra* note 232, at 280.

293. MARSHALL R. SINGER, *WEAK STATE IN A WORLD OF POWER: THE DYNAMICS OF INTERNATIONAL RELATIONSHIP* 59 (1972).

294. Hoffman, *supra* note 211, at 28.

Nicolas Sarkozy in a long tradition of anti-determinism, where the will of mankind takes precedence over material considerations in opposing the symbols of the “existing order.” and in trying to find alternative paths to the world peace.²⁹⁵

CONCLUSION

Returning to the idea that inspired this presentation, *la laïcité* is an important part of the French outlook but it does not represent the entirety of French thought, nor is it sufficient to define France’s entire civil religion. Secularism is part of a larger ensemble that represents the Republic and provincial France. Most appropriate seems to be the image of a triptych,²⁹⁶ which allows one to read the French story by several points of enlightenment, the legacy of an oft conflicted mindset. At first, it seems uniform in appearance. Despite this, the French triptych remains fragile. It is complex, torn by powerful local and regional identities, a constant opposition between the center and the provinces, between the city and the countryside, between suburbs and downtowns, between the French-born and the newcomers, colored by race, ethnicity, and religion, social strata, and insidious discrimination. It remains active and affective in the memories of minorities and the colonized. Teaching this civil religion demands that a true catechism be maintained, which the French school system, efficient for so long, seems no longer able to transmit. The French triptych also suffers from a superiority complex from which French elites have a very difficult time removing themselves. From one end to another, the French triptych is like a garden that must maintain and cultivate its diverse species. The religious changes, the emergence of cultural peripheries, the multiple identities of its citizens, all of which grow without any kind of unifying narrative, are of little help in the management of this garden. For all these reasons, the civil religion of France, if perchance it exists, would need a serious and voluntary re-thinking for the sake of its new generation.

295. Foreign Minister Hubert Védrine embodies this humanistic tendency well. See generally HUBERT VÉDRINE, *HISTORY STRIKES BACK: HOW STATES, NATIONS AND CONFLICTS ARE SHAPING THE 21ST CENTURY* (2008).

296. A “triptych” (pronounced /trɪptɪk/ *TRIP-tik*, from the Greek τρίπτυχο, from *tri-* “three” + *ptyche* “fold”) is a work of art (usually a panel painting) which is divided into three sections, or three carved panels which are hinged together and folded. The triptych form arises from early Christian art and was a popular standard format for altar paintings from the Middle Ages onwards. Its geographical range was from the eastern Byzantine churches to the English Celtic churches in the west. Renaissance painters and sculptors used the form. *Triptych Definition*, ENCYCLOPÆDIA BRITANNICA ONLINE, <http://www.britannica.com/EBchecked/topic/605854/triptych> (last visited Jan. 24, 2011).

