

Secularism in France and the Challenge of Populism

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Religious freedom in France is rooted in a long and tumultuous history. First proclaimed in Article X of the Declaration of the Rights of Man and of the Citizen of 1789 (“No one shall be disturbed on account of his opinions, even of a religious nature, provided that their manifestation does not disturb the public order established by law”), freedom of conscience and worship for all was reinforced by the gradual secularisation of the state during the 19th and 20th centuries.¹ The first article of the 1905 law on the separation of church and state proclaims that “the Republic ensures freedom of conscience. It guarantees the free exercise of worship”. Finally, the current constitution of the Fifth Republic (1958) describes the latter as a “secular republic” and specifies in its Article 1 that it “respects all beliefs”.²

From a legal and constitutional perspective, the defence of freedom of religion or belief in France follows the overarching criteria defined internationally by the 1948 Universal Declaration of Human Rights in its Article 18: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change one’s religion or belief, and freedom, either alone or in community with others and in public or private, to manifest one’s religion or belief in teaching, practice, worship and observance.” It is expressed by the privileged term *laïcité* (or secularism) of the state.³ For several years, the very

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- 1 Picq, Jean: *La liberté de religion dans la République: L’esprit de laïcité*, Paris: Odile Jacob 2014.
 - 2 Calvès, Gwénaële: *La laïcité*, Paris: La Découverte 2022.
 - 3 Zuber, Valentine: “Laizität – eine französische Ausnahme? Zum Verhältnis von Staat und Religion,” in: Corine Defrance/Ulrich Pfeil (eds.), *Länderbericht Frankreich*, Bonn: Bundeszentrale für politische Bildung 2021, pp. 409–419.

principle and definition of secularism have been fiercely debated in French society, and they regularly reappear in the political and media debate on the integration of foreign populations of Muslim culture or religion. Secularism – an achievement of republican programmes and of the left since the 19th century – is now claimed by the populist right, including the extreme right. From being a principle of equality and fairness in the treatment by the state of all its citizens regardless of their religious affiliation, for some secularism has become a solution for the exclusion of an exogenous religion considered as a threat to French identity. The “new secularism” (“nouvelle laïcité”⁴) appeared at the turn of the millennium and was gradually clarified by new laws on the control of religion. However, is this new secularism threatening the universal guarantee of fundamental freedoms necessary for perpetuating a genuine state governed by law by turning a legal principle of regulating pluralism into a means of state control of religion?

The eventful history of the establishment of the freedom of religion or belief in France

The process of secularisation in France has been long and conflictual, proceeding for several centuries before taking the form that we know today. Far from being uniform, it has gone through all sorts of stages, made up of comings and goings, modifications and historical and geographical exceptions. Indeed, its history – which began with the introduction of the Reformation in France – is not yet complete. This process has seen a succession of different political and conceptual models, albeit in which one could already detect sketches of the different secular principles that currently characterise French secularism. Several regimes for the management of religion by politics have thus succeeded one another in the course of modern French history: a model of religious co-existence with the Edict of Nantes of 1598 granted by King Henry IV, which allowed French Protestants – in well-defined areas – to benefit from civil and political recognition until King Louis XIV withdrew it from them in 1685 with the Edict of Fontainebleau revoking the previous Edict; a model of civil tolerance with the granting in extremis by King Louis XVI in 1787 of a civil status issued by the king's officials to Protestants who had previously been hunted

4 Hennette-Vauchez, Stéphanie/Valentin, Vincent: *L’Affaire Baby Loup ou la Nouvelle Laïcité*, Paris: Lextenso éditions 2014.

down and had no civil status; a model of religious pluralism regulated by state control with the proclamation of the Civil Constitution of the Clergy in 1791, which made clerics paid by the state into civil servants who had to swear an oath of loyalty; the first separatist model with the decree of 3 Ventôse Year III (1795), which established the separation of the Catholic Church and the State and the end of subsidies for religions following the failure of the constitutional church; and the recognition model with the system known as “recognised religions,” which combined the signing of a concordat with the Pope in 1801 with the organic articles regulating the police of Catholic and Protestant religions (1802). Issued unilaterally by the state, the latter granted subsidies to the various religions represented on the territory – Catholicism, Lutheranism, Calvinism and, a few years later, a non-Christian religion, Judaism – under the condition of reinforced and tactful control. This conventional regime was exceptionally long-lived (just over a century of operation) and survived all of the political upheavals that have marked French history except for the last one, the republican regime of the Third Republic, which marked its end with the law of separation of Church and State of 9 December 1905. However, it persists in three French departments – Haut- and Bas-Rhin and Moselle – for essentially historical reasons.

The separatist model of 1905 pronounced the divorce (without mutual consent) of the State and the cults and put an end to the public service of the cults and the state subsidy of the latter. Religious institutions were henceforth governed solely by private law and their legal organisation involved the creation of religious associations, which were somewhat different from the general associations governed by the 1901 law. Although they are more difficult to set up than the former, they benefit from some tax advantages. Moreover, religious associations must be chaired by an elected member and their executive bodies must meet the requirements of a democratic body. This is the legal model governing the majority of French religious denominations (even the Catholic denomination, for which the religious associations initially rejected by its authorities were converted into diocesan associations directly headed by the bishop).

Although the regime resulting from the 1905 Act was applied to several French overseas departments such as Reunion Island, Guadeloupe and Martinique (from 1911), other French territories remain subject to older legislation. This is the case in the department of Guyana, where – by virtue of a royal decree dating from the reign of Charles X (1828) – the only religion recognised is Catholicism. Its clerics (bishops and priests) are employees of the General Council of French Guyana and have the status of civil servants. The other

religions and all those present in the other overseas territories are governed by decree-laws dating from 1939 (known as the Mandel decrees), whether in the overseas collectivities (such as French Polynesia, Wallis and Futuna, Saint-Pierre and Miquelon, French Southern and Antarctic Territories), but also in the collectivity – with a special status of autonomy – of New Caledonia and even in Mayotte, whose elevation to the status of department on 31 March 2011 did not change the legal situation of worship. Due to the non-application of the 1905 law to these territories, the religious regime resulting from these decrees authorises public funding of worship. Moreover, placed under close state supervision, the boards of directors of the various religions enjoy tax benefits as in France.

These different systems of worship – all of which derogate from the 1905 separation of the Churches and the State – allow us to better appreciate the depth and complexity of French history in terms of the management of religion, compared with what the vulgate most often teaches us. This proves the French inventiveness and flexibility in this area, which has enabled better adapting the legal system for guaranteeing the freedom of religion or belief to local situations.⁵

Secularism disfigured by both authoritarian republicanism and far-right populism?

Legal secularism is a principle that guarantees the exercise of all positive freedoms offered to individual citizens in France. It can in no way be confused with a strictly philosophical value, nor can it be transformed into a particular ideology supported by the state. On the contrary, the latter must defend it against anyone who wants to impose it in a unilateral and authoritarian manner as a philosophy professing militant atheism. If this were the case, secularism would risk being transformed into a kind of disguised republican civil religion, exclusive and therefore – in the long run – necessarily intolerant of other belief and value systems. Its transformation into a kind of secularism of combat, into a kind of opposable secularism, would then inevitably attack the public expression of the diversity of particular opinions. Beyond the obvious restrictions on freedom of religion or belief that it might induce, such a vision of secularism

5 Portier, Philippe: *L'État et les religions en France. Une sociologie historique de la laïcité*, Rennes: PUR 2016.

would therefore seriously undermine the guarantee of another essential human right, namely freedom of expression for all, framed only by the legal restrictions deemed necessary to preserve the rule of law. The French state must be secular, neutral, impartial and intrinsically indifferent to all ideological and religious proposals. Only this neutrality of the state and its legal representatives can ensure that society is not subjected to it. The stakes are high: a society that is forced to be secular runs the risk of being artificially consensual and therefore fatally impoverished in its vital forces. It is in fact because the individuals making up society are not obliged to be neutral in any way that society can continue to be a space common to all, in which contradictory debate – a prerequisite for any democratic functioning – remains possible and always alive.

The incessant controversies and anathemas – today as in the past in the public debate, about the “true” definition of French secularism⁶ – unfortunately maintain this dangerous confusion for the preservation of freedom of religion or belief. Moreover, calls to ban religious symbols in the social sphere as a whole – which generally emanate from the political extremes of the right or the left – are a symptom of this very political struggle that aims to weaken the democratic liberalism that constitutes society in the long term. In a context troubled by the Islamist attacks, marked by an almost desperate demand for more and more security, this anti-liberal fight is even infecting some actors of the more moderate parties. The “fight for secularism” is chanted by both the declinists – forever nostalgic for a mythical traditional society – and the supporters of a French republican identity with a xenophobic tone. These approaches seriously threaten individual freedom and the carefully balanced nature of our pluralist society.

For several years, a widely circulated current of thought has been giving a particularly ethnicised and essentialised reading of the principle of secularism, based on the questionable hypothesis of a “clash of civilizations.”⁷ The primary matrix of secularism is said to be essentially constituted by its Christian theological roots, conveniently disregarding the equally Greco-Latin philosophical origin of Western culture. Islam as a religion and the matrix of a particular civilisation – considered authoritarian, submissive and retrograde

6 Baubérot, Jean: *Les Sept Laïcités françaises. Le modèle français de laïcité n'existe pas*, Paris: Maison des sciences de l'homme 2015.

7 Huntington, Samuel: *Clash of Civilizations and the Remaking of World Order*, New York: Simon and Schuster 1996.

– could not therefore think of the idea of secularism, let alone apply it to the political reality in its sphere of influence. There would therefore be incompatibility – in fact and in principle – between a Christian vision progressively acclimatised to modern liberalism and pluralism and a Muslim vision necessarily exclusive of these liberal legal-political principles that it could only fight, including by arms and terror.

However, looking back to the past, these ethnocentric and anti-religious discourses are not new. As early as 1905, certain radical republicans – proponents of progress – considered that the Catholic religion as a theological-political system was necessarily and definitively incompatible with secularism. Since then, following the Catholic acceptance of the modern principle of liberal and democratic state government, the traditional anti-clericalism of a certain left has spread beyond its political spectrum to influence the discourses of the right and the populist extreme right. Under the guise of defending secularism, for some decades the latter have been advocating a political radicalism that is properly anti-Muslim. The traditional anti-religious discourse has thus been transformed and – playing on social fears – gradually tinged with racism. It has done so by more or less consciously confusing an ethnic group (North Africans, Middle Easterners, etc.) with a supposed religious group (Muslims). This tendency has been further aggravated by the trauma caused by jihadist-inspired terrorism, which invokes its supposedly unconditional respect for the Islamic injunctions of the mythical beginnings of this religion in support of its murderous struggle.

Since the end of the 1970s and the global shock of Iran's successful Islamic revolution in 1979, debates about immigrant populations from Muslim countries have often focused solely on the Islamic character of their identity, blaming their difficult integration into Western society solely on their religion. Ignoring other explanatory factors such as the cultural deficit linked to poverty and social relegation, "Islamic values" quickly appeared to be the absolute antithesis of Western values and thus the secular ideal. Mixing the promotion of gender equality, religious fundamentalism and terrorism, religious visibility and the supposed neutrality of the public space, the debate has become considerably impoverished and deeply divisive. Religious and social intolerance are dangerously combined in a xenophobic approach, especially in the rise of populist and identity-based movements in the run-up to important elections that polarise the sides.

The return of a policy of religious control

However, the Muslim presence has forced Western states – including France – to question their conception of nationhood and citizenship to reassure the natives while integrating the newcomers.⁸ At the same time, the modern state must fight against discrimination, not only racial discrimination but also increasingly cultural and religious discrimination (anti-Semitism and Islamophobia). Thus, to varying degrees, the state's involvement in the organisation of the Muslim religion on French soil has highlighted a concern for renewed control of the religion of these populations by the public authorities (the law of 15 March 2004 on religious symbols in schools, the law consolidating the principles of the Republic of 24 August 2021, insistent demands for repressive legislation on the wearing of the Islamic headscarf in early childhood structures, during school outings, at university, in the public space, etc.). This control also involves the invention – and the difficult implementation – of “mainstream” religious or community bodies that are strongly encouraged by the state to combat radicalisation and the terrorism practised by political Islamism.⁹ Amongst these, the French Council of the Muslim Faith created in 2003 (*Conseil français du culte musulman*, CFCM) was finally disavowed by the state in 2022 and replaced by a new body, the Forum for the Islam of France (*Forum de l'Islam de France*, FORIF). Aiming to move from a secularism of freedom to a secularism of control, this type of public policy is currently gaining strength in France. In the long term, it threatens the initial liberalism of secularism as defined by the 1905 law by arbitrarily subjecting individuals to their supposed community affiliation.

Even if the law of 15 March 2004 is not presented as a law applicable only to Muslims in France, and young Sikh boys have been called to order due to the wearing of their traditional turban in public school, it is nevertheless part of a context marked by a strong rise in anti-Muslim sentiment in French society since the late-1980s. This state of mind has been fuelled by a populist political proposal that makes immigrants the scapegoats of the French economic and identity crisis. Indeed, these immigrants are regularly accused by some of not wanting to assimilate as they should into their host society. This feeling of rejection has further developed in a troubled national and international

8 Roy, Olivier: *La Laïcité face à l'islam*, Paris: Stock 2005.

9 Fregosi, Franck: *L'Islam dans la laïcité*, Paris: Hachette Pluriel 2011.

context, marked in Western countries and particularly in France by jihadist attacks (from 1995 to the present day). A disturbing and xenophobic equivalence has been made in some minds between Islamist projects (and attacks) and the demand for visibility and recognition presented by Muslims in society. In the face of social distress and silence about the symbolic consequences of the colonial wars, and in particular the Algerian war, the demand for assimilation made to immigrants and their descendants has proved to be more incantatory than effective. It is based on a demand for the abstract equalisation of all citizens, which no longer works in our increasingly open, multi-racial and pluralist societies. It is through this prism that we can understand the existence of recurrent debates over the past 30 years about the wearing of religious symbols in the public space, as well as – for example – the possibility or not of alternative menus to pork in school canteens or in closed public establishments. They are relayed in the media sphere by the highlighting of a few examples of incivility noticed in public establishments, such as the questioning of gender equality in interpersonal relations (challenging a doctor due to his or her sex, refusing to shake the hand of a colleague of the other sex, requesting exemption from certain courses – even though they are compulsory – or sports sessions practised in mixed classes).

Religious visibility through clothing choices is the sign of a real societal tension, which is stronger in France than elsewhere. This can be partly explained by the strength of an anti-religious tradition held by a part of French society, generally on the left. Raised with a visceral distrust of the public expression of religious affiliation, they see only obscurantism and obstinate irrationality in the phenomena of belief. The rhetoric of the necessary emancipation from religious control seems to always mark the discourses that claim to be progressive. This may help to explain the disturbing convergence – emanating from the two extremes of the political spectrum – of these rejections of religious visibility in the public space, and more specifically of the Muslim one, in a context of particularly reinforced security demands. Faced with the renewed tension between the ideal of a secularism of abstention and the actual practice of a secularism of recognition and control, the French political conception of secularism is particularly questioned. The idea of a purified secularism as a French exception increasingly appears to be a national myth and a discourse that is partisan, instrumentalised and disconnected from reality. Combining the state's requirement for neutrality and philosophical and religious impartiality with the preservation of public order in a society affected by the globalisation remains a challenge. The requirements of the

rule of law are thus put into perspective in a context marked by a legitimate demand for security in the face of jihadist attacks. However, it is to be hoped that the regulatory adjustments necessary for civil peace will always be made with primary respect for the liberal principles enshrined in international texts, and in particular with respect for the non-discrimination on religious grounds that they imply.

Conclusion

The principle of secularism is therefore faced with renewed challenges, including the tension between the need to welcome immigrant or displaced populations and the concern to preserve the security of populations already settled. Current policies more or less intentionally undermine a more reassuring sociological reality that shows that French Muslims are in favour of secularism. This is proven by regular surveys with relatively unanimous conclusions on the effectiveness of the integration of recent immigrant populations.¹⁰ They show that French Muslims are quite comfortable with their civil and religious life in a plural society and regularly demonstrate their attachment to it, particularly during the major challenges faced by the French nation. However, these challenges place not only the idea of secularism at stake, but also the guarantee of individual freedoms for all, whether or not they are Muslim.

It is important to remember the difference between secularism as a legal-political principle and secularism as an ideological, moral and/or security value. Conceptual words always have a history and their evolution is significant of contextual changes.¹¹ Legal secularism is not an ideological movement, but the principle that allows for the free expression of all beliefs while respecting the law and public order. Discourses of the secular-identitarian type, transposing the logic of the scapegoat, Jews, Muslims, Roma, refugees, instrumentalised and racialised by certain politicians, are a real deviation from the principle of liberal origin that is secularism. Because the individuals who make up

10 INSEE (Institut national de la statistique et des études économiques): Immigrés et descendants d'immigrés (= Insee Références Édition 2023), <https://www.insee.fr/fr/statistiques/6793314?sommaire=6793391>, accessed on: 24 Apr. 2023.

11 Thiéry-Riboulot, Véronica: Usage, abus et usure du mot laïcité, Paris: Les Conférences de l'EPHE 2022.

minorities are unjustly feared, despised, or even rejected, it is urgent for citizens to be vigilant and combative.

Secularism is first and foremost the guarantee of the freedom of each individual in all his or her uniqueness. Because they are necessary for collective life in a truly democratic state, freedoms – of conscience, religion, belief and expression – must be scrupulously reaffirmed and applied to all without exception, in accordance with the wording of Article 1 of the Constitution: the Republic “ensures the equality of all citizens before the law, without distinction of origin, race or religion.”

In order to renew and revitalise the principle of secularism, we must therefore continue to respect the most fundamental human rights, such as the freedom of expression spontaneously defended by several million people who took to the streets on 11 January 2015, following the murderous attacks on the editorial staff of the weekly newspaper *Charlie Hebdo* and the customers of the *Hypercashier*. However, this must be allowed for all, and certainly not at the expense of freedom of religion or belief of certain politically or socially stigmatised groups. In practice, respect for the legal principle of secularism as it has been historically defined in France must not lead to the sole implementation by the state of a policy of control and targeted bans, but rather seek to deepen the process of integration and adherence of all citizens to shared values through dialogue, beyond their differences of religious belief or non-belief.