

**“Liberté, Egalité, Fraternité,” Laïcité?
An Analysis of France’s 2004 “Veil Law” and its Effect on
French Muslims**

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Abstract

This thesis aims to examine how the March 15th, 2004 law prohibiting all “ostentatious” religious signs and symbols in public schools in France, despite targeting all religious outfits in its labeling, might lead to a significant negative impact on French Muslim populations. This thesis reaches mixed conclusions. I find that there was initial extensive mediatic and political focus on the headscarf brought a strongly negative image of the veil, which constituted a trigger for the establishment of the law. I also discuss the ambiguity of the concept of laïcité allowed for an application of the law that is equal yet “indirectly” unfair to French Muslim schoolgirls, and even affecting Muslim women wearing the veil outside of schools. Finally, I find that the subjectivity of the concept of “conspicuousness” on which the 2004 law relies allows for unfairness of application. It does not constitute decisive evidence to draw an answer about whether the law directly made Muslims worse off and more likely to be discriminated, yet this same evidence points in that direction. In my conclusion, I draw out policy recommendations based on the issues related with media coverage and the differences in interpretation of the concept of laïcité.

I – INTRODUCTION AND CONTEXTUAL POINTS

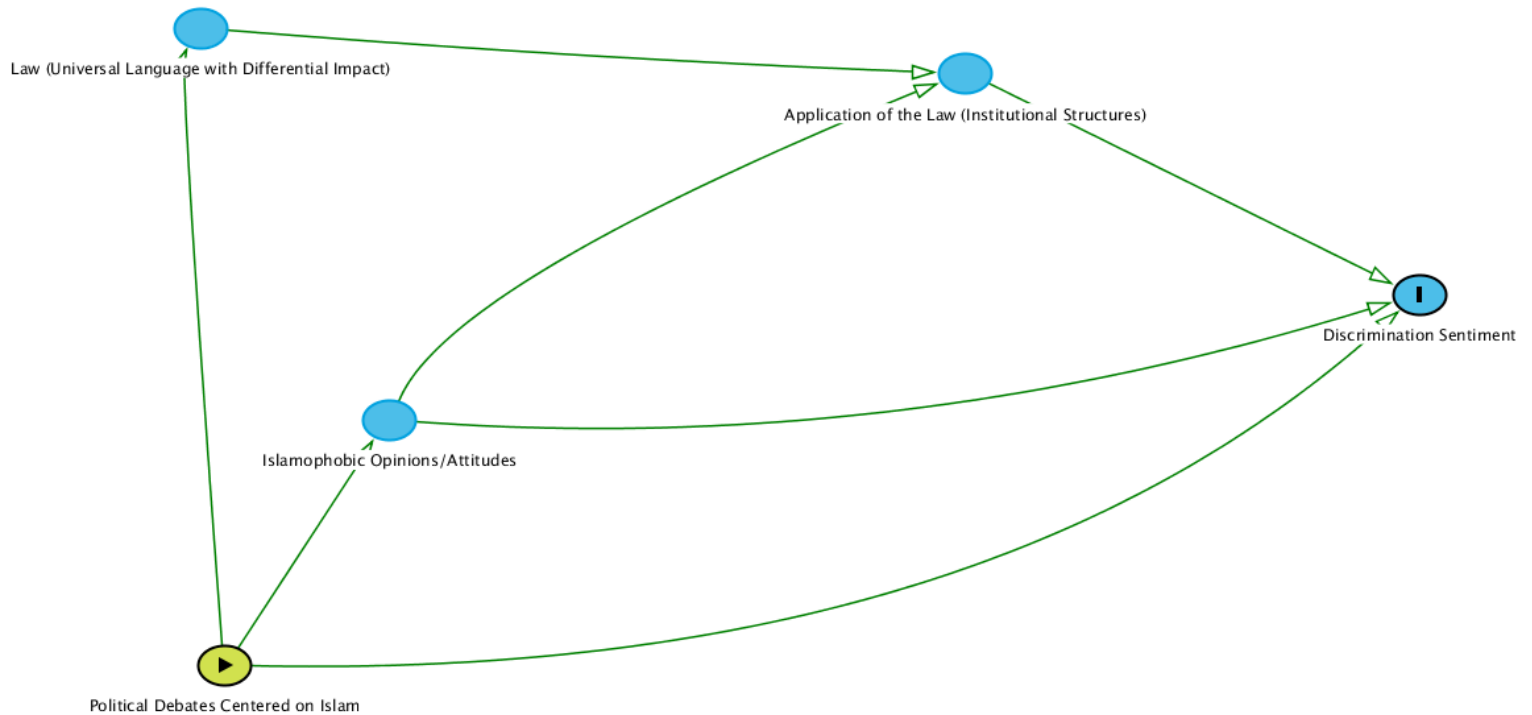
1.1. Introduction

If many know the “Liberté, Egalité, Fraternité” national motto inscribed on top of every French town hall, the principle of Laïcité is not something often known in depth outside of French borders. Laïcité can be said to be an old legal, social and political pillar of the French Republic. Dating from a law instituted in 1905 during France’s Third Republic, it stands as the principle assuring the strict separation between the French state and churches, as a conclusion to years of debates dividing the Parliament between a strong Republican faction – composed of powerful anti-clerical voices – and a more conservative, pro-Catholic Church constituency. Even if it established a democratic cornerstone of the French Republic, the 1905 law was originally inscribed in a context of agitated debates and strident opposition. The principle of laïcité is used again as the basis of more controversial laws, notably the March 15th, 2004 law on conspicuous religious signs and symbols in public schools, that forbids pupils to wear any visible sign that shows religious appurtenance or belief. It is on laïcité and this specific law that this thesis focuses on. In fact, as France’s Muslim population feels increasingly marginalized, as several debates on the compatibility between Islam and French values regularly punctuate the French media, (like the latest burkini controversy illustrates), this thesis aims to question the utilization of the laïcité principle by the French state in today’s politics. Even if it aims to neutralize the public space of any religious influence, the 2004 law is known as the “veil law” in France, highlighting the ways in which this law might disproportionately be associated with the Muslim hijab. I argue that the 2004 law, in its application is “weaponized” against Muslims to a certain extent, and affects them disproportionately compared to other religious communities, by observing how the kind of universalist language used in the application of the 2004 law might be hurting French Muslims. This thesis uses analysis of current literature, qualitative interviews and quantitative surveys in order to assess the ways and to what extent in which the language used when the 2004 law is applied affects Muslim populations in France.

1.2. Research Question and Hypothesis

Understanding in which ways the universalist language of the 2004 law, combined with debates, political discussions and media attention specifically focused on Muslim and the Muslim veil have influenced the ways in which French attitudes towards Muslim religious expression in

public spaces. The main question of this thesis is the following: how did the 2004 law on the prohibition of religious symbols in public schools, despite the universal language it uses, disproportionately affect French Muslim populations? It is quite a complex question indeed. In fact, I analyze the links between different variables in order to answer to that question. They are summarized in the model below:



Model 1: Central hypothesis.

Before explaining the different relations between variables I aim to analyze in this thesis, I want to define certain terms. In this model, I distinguish “islamophobic opinions/attitudes” from “discrimination sentiment”. I define the former as the French public’s opinions on Islam becoming less tolerant/open/warier of Islam and Muslims, Muslims (more likely to support statements or policies that view Muslims as non-French, that would differentiate Muslims from the rest of French citizens) as well as any attitudes they could have towards Muslims or external expressions of Muslim faith (e.g. a company refusing to hire Muslims or Muslim women who wear the veil). On a moral ground, some might disagree as to whether discriminating against a Muslim woman wearing the veil in the context of an hiring process can be considered as islamophobic. While this

thesis does not intend to be a debate on the definition of islamophobia, I intend to define islamophobia using the French definition given by the Larousse Dictionary, one of the many dictionaries equivalent to the American Merriam-Webster: “islamophobie, nom féminin: Hostilité envers l'islam, les musulmans.” [Islamophobia, female noun: hostility against Islam, Muslims] (Larousse) – and allow this definition at large include actions that specifically target Islam, Muslims as well as any external expressions of faith (e.g. wearing of the veil, construction of a mosque, halal menus in restaurants or school cafeterias) Whether or not some external expressions should be regulated or banned for the sake of public order is still a matter of debate, and they will be included in my larger definition of “islamophobic opinions/attitudes” (from typical citizens) unless they make the object of a specific law.

Concerning the definition of “discrimination sentiment,” I define it as a sentiment of marginalization, victimization, and overall lack of well-being felt by French Muslims concerning their place as Muslims (practicing or not) in French society. Whether it is a justified sentiment or not is also another debate that will not be tackled in this thesis, As I aim to simply provide the reader with a sample “temperature” of Muslim well-being in France, knowing whether or not their sentiment is justifiable is not part of my goal.

1.3. Motivation

There has been substantial literature on laïcité, and on the 2004 law, whether it is to criticize the current application of laïcité through a political theory lens (Laborde), or to address the constant problematizing of Muslim garments and symbols by French politicians and the media (Nakad). Similar literature exists concerning the complex relations between laïcité and French Islam (Roy) but I have observed that the literature addressing French Muslims’ perception of the 2004 law wasn’t as frequent or popular. Even if many authors have been addressing the issues posed by French application of laïcité, notably in its application of the 2004 law, I felt like there was a gap to filled in regards to understanding and measuring the impact on French Muslim compared to other populations. What is their position vis-à-vis of the law? Do they feel more or less negatively or positively impacted by the law? Are there differences of impact observed in different demographics (e.g. age, gender, etc.)? Moreover, as a French citizen myself, I have observed the emergence of identity issues on the political stage. France is soon electing its next president, and the question of the compatibility between French Republican values and Islam has become a topic

repeated on political and media stages, accompanied with controversies like the recent burkini scandal, I realize it is important to understand the point of view of Muslims on the question and to question the ways in which the principle of *laïcité* is currently interpreted by politicians, and by the people in charge of applying the 2004 law (teachers, school staff, policemen, etc.)

1.4. *Laïcité*: History and Current Context

“La République assure la liberté de conscience. Elle garantit le libre exercice des cultes sous les seules restrictions édictées ci-après dans l'intérêt de l'ordre public,” [¹ “The Republic guarantees freedom of conscience. It guarantees the free exercise of religions under the only restrictions enacted hereunder in the interest of public order.”] writes the very first article of the French law enacted on December 9th 1905. (Legifrance 1905) This law, in French legal history, is the one on which the essential principle of *laïcité* rests, and on which several laws concerning the regulation of religious behavior and presentation rely on, including the March 15th 2004 law on conspicuous religious symbols in public schools that is at the center of this thesis. In order to understand the legal and social framework of the 2004 law, it is necessary to first and foremost understand the social and political context of *laïcité*, both at its creation in the 19th century as a legal and political major concept of the French Republic, but also during the 1990s and 2000s, when arose the controversies and debates that led to the establishment of the 2004 law. This portion will then be reserved to explain the context necessary to understand the environment and factors that led to the birth of a form of secularity “*a la française*”.

1.4.1 Laïcité: a principle constructed around State-Church struggles

The word “*laïcité*” first made its appearance in the French Dictionary *Dictionnaire Littré* in 1871 through its adjectival version “*laïque*”, defined as “conception politique et sociale impliquant la separation de l’Eglise et de l’Etat.”¹ (Khalifa 55) As a concept in French, the word “*laïcité*” simultaneously designates the larger idea of separation between religious institutions and the State and the particular French legal and political regimen concerning the application of this idea. During the second half of the 19th century, France underwent a series of legal, political and social reforms that saw confrontations between the Catholic Church, the most preeminent religious

¹ “Political and social conception involving a separation between the Church and the State.”

institution at the time, and the French Assembly that established the legal foundations of laïcité. It is necessary to understand the historical context and the confrontational relationship between the State and the religious institutions existing within the French territory. In fact, it will allow to grasp the ways in which laïcité was built and used at its creation, not just to ensure freedom of conscience and Church-State separation, but also to directly oppose specifically religious influence of the Catholic Church at the end of the 19th century and beginning of the 20th.

The history of laïcité is inscribed in a longer history of a relation of control of the French State over religious institutions – and notably the Catholic Church – that, according to Jean Baubérot, can be traced back to the thirteenth and fourteenth centuries. King Philippe le Bel initiated a tradition of church regulation when he initiated the tradition of controlling the French Catholic Church from the palace. (Bowen 21) In fact, when in Anglo-Saxon political culture, religious tolerance was a matter of “recognition of freedom of conscience,” the French political culture allowed tolerance as the “regulation of a recognized religion”. (22) It is this model of state regulation of the church that dominated the French political sphere until the late nineteenth century. Yet, with the French Revolution of 1789 came an antireligious current of thought, even if towards the beginning of the nineteenth century, nearly all French citizens belonged to the Catholic Church (23). Throughout the century, the relations between State and Church oscillated between regimes that were acceding to the Church’s social, political and legal demands (i.e. as the July Monarchy of 1830-1848), regimes that aimed to establish a new form of State control over the Catholic Church (i.e. the 1801 Concordat through the Napoleonic Empire), or Republican regimes planning a form of secularization and State-Church separation. (23-24) This back-and-forth between control, allowance and secularization was also illustrated legally: divorce, which was allowed during the Revolution, was forbidden in 1816, then reauthorized in 1884. (24) Tensions between supporters of Church control in public affairs and proponents of anticlericalism grew, and found its climax in the debates that raged during the Third Republic (1870-1940) Throughout the Third Republic, the Republicans, dominating the government and the Assembly, supported a secularizing stance, seeing the Catholic Church as a threat to republicanism, and the principles of modernity and progress they upheld. Léon Gambetta, major political figure at the time, talks about the necessity of building a new political order, “away from and above of the dogmas and the practices of different religious confessions.” (Portier 91)

The field of education notably becomes a battlefield opposing the Church and the State, the latter aiming to reduce the former's influence. In public schools, religion still occupied a large role, with mandatory morning prayers and religious instruction taught by priests once a week. (Piettre 30) Under the Falloux law of 1850, the Church was allowed a larger place in education, to the disagreement of Republicans. The Third Republic begins its secularization of school by creating a new school curriculum teaching a new form of morality, drawing on Christian philosophy, but also Kant and Confucius. (Bowen 24)

But the Ferry laws implemented between 1882 and 1886 represent the strongest blow given from the State to the Church's place in education: education is declared to be free, mandatory and "laïque" (secular) in public schools throughout the territory. For the first time, education is drawn as the public space in which "the Church could not go," and Jules Ferry, then minister of public instruction, is painted as a "Republican hero". (25) Since then, the French Republican legacy has been represented as a combat against the Church (and other religion's) influence on young minds. As Bowen writes, this episode in French history helps to explain how several teachers and intellectuals [and I would add, politicians] see the presence of Islam in schools as a menace to the two Republican struggles of the Third Republic: "the fight to keep religion from controlling young minds, and the struggle to forge a common French identity." (25)

1.4.2. The establishment of the 1905 law

The law of December 9th, 1905 concerning the separation of Churches and State, composed of forty-four articles in its latest version, is the legal foundation of the current French model of secularism. Discussed in the National Assembly from March 21st to July 3rd 1905, its text was the object of one of the longest debates in parliamentary meetings in France (Unger 11) It settles the disputes between the Catholic Church and the State that last throughout the Third Republic, disputes that had reached a new level of intensity with the Dreyfus affair (1898-1899), which brought a new bone of contention opposing anticlericals and proponents of the Church. Its first article inscribes "freedom of conscience and free exercise of organized religions", and its second guarantees that the State "neither recognizes nor pays the salaries of, nor subsidizes any religion" (Bowen 26), although additional provisions allow citizens to recognize religious institutions and bodies as private religious associations that own and operate buildings, and enjoy tax exemptions. Reading from the terms of the 1905 law, Olivier Bobineau and Stéphane Lathion distinguish four

types of *laïcité* present in the legal text: a “*laïcité de proposition*” (66), a “*laïcité de differentiation*” (69), a “*laïcité d’opposition*” (71), and a “*laïcité de composition*” (72). If the 1905 law is dominated by the “*laïcité de proposition*”, which aims to make *laïcité* the tool to manage the coexistence of religions in civil society (Bobineau & Lathion 66) through its first article, the political context of 1905 is of a “*laïcité d’opposition*”, a *laïcité* that advocates stricter control of the Churches by the State, mainly to fight against the Catholic Church’s strong influence in civil society, (71) as we have explored in the previous paragraph.

Other readings of the 1905 law would tend to read the law as not as a “law of combat, but a law of pacification” (El-Haggar 41), basing their interpretation on the fact that the law came to be established as an accord between different political factions – socialists, radical-socialists, moderate republicans, conservative republicans, as well as support coming from civil society organizations. The 1905 law is then seen as a law closing the clash between clericalists and anticlericalists, and imposing itself as a law of peace. It is indeed important to recognize the smoothness of the parliamentary process during the voting of the law, as well as the efficiency of the parliamentary commission that drafted the law. In June 1903, a commission composed of thirty-three members (17 members of the majority, 16 members of the opposition) is in charge of studying eight different bill propositions for what would become the 1905 law, sign of the discord and political disagreements surrounding the law project. Aristide Briand, a socialist deputy, becomes then the mediator between pro-church right wing and anti-clerical Republicans, and manages to rally the two opposing political factions and produces a synthesis of initial proposed texts to bring before the Parliament: one single text that will become the 1905 law.

Yet, the political and social climate at the time of the law’s creation shouldn’t be dismissed so quickly when aiming to understand the law. The religious and political climate at the time of the law still remained very agitated, and a possible reading of political intentions as “pacifying” does not exclude another reading of this law as a law of “combat”. The law of 1905 would not have been the object of such a debate at the time without the significant confrontations between anticlericalists and supporters of the Church.

An interesting point to note is that despite being the law introducing the concept of *laïcité* in the French legal sphere (Portier), the word in itself is not at any time mentioned nor defined in the legal text of 1905. The legal existence of the word relies on its presence in the first article of the 1946, then the 1958 Constitution of the current Fifth Republic: “La France est une République

indivisible, laïque, démocratique et sociale.” [France is an indivisible, secular, democratic, and social Republic.] (Conseil Constitutionnel). Being defined as a fundamental pillar of the Republic, the definition of laïcité is however not a universal truth all historians, legal experts and politicians agree upon. I refer to John Bowen’s chapter on the “misunderstanding” concerning an exact definition of laïcité (32). Following on W.B. Gallie’s definition of an “essentially contested concept”, Bowen argues that laïcité remains a “politically useful [term] precisely because it has no agreed-on definition” (32), and that despite the historical and legal narratives, there has never been a formal agreement “on the role religion should play in public life” (33) A more recent view, shared in the French political sphere, expressed by President Jacques Chirac in his December 17th, 2003 address on religious signs in public schools, views laïcité as “protected, privileged, multifunctional social space within which Republican principles could survive and prosper” (29) Political researchers, like El-Haggar, share this point of view: they describe laïcité not as a principle supposed to make freedoms coexist as they are in a given a society, but as a principle that aims to build a space that would be the condition of such a coexistence. (El-Haggar 19) This most recent reading would interpret laïcité, rather than an enabler of religious freedoms, as a laïcité-regulator, protector of the Republican principles and values in the public space and within public spaces. Yet, which exactly are the public spaces that are protected by laïcité? With the 2004 law, the school – as a public space regulated by the French State – becomes one of these spaces formally protected by the principle of laïcité. It becomes the first law, almost a hundred years after the 1905 law, to be promulgated in “application of the principle of laïcité.” (Legifrance 2004)

1.5. The 2004 law on laïcité and conspicuous religious signs and symbols

The first article of law No. 2004-228, dating from March 15th, 2004 writes as follows: ““In primary and secondary public schools, the wearing of signs or dresses by which pupils ostensibly show a religious affiliation is prohibited. Internal rules to the institution recall that the implementation of a disciplinary procedure is preceded by a dialogue with the pupil.” This law forbids the wearing of any religious signs or clothing by students when present in the premises of any primary and secondary public school. The same rule already applied to teachers as well as school staff given the terms of the Ferry laws voted in the 1880s. This law concerns any religious symbols or clothing present inside public schools, yet an interesting point is that the law is known as the “veil law” in the collective conscience and media sphere: a Le Monde article writes on the

subject, “From a juridical point of view, she [the law] incorporates all religious symbols, but, in the common language, it became “the veil law” (Bronner) This immediate association of a law that aimed – at least in its language – to be equally restrictive to all religious symbols to the reality of the Islamic hijab is telling. It is then necessary to look and analyze the political and social context that accompanied the law, from its birth to its official promulgation, as well as its consequences.

II – CONTEXTUALIZING THE LAW: SOCIO-POLITICAL DEBATES

2.1. The debates surrounding the 2004 law: 1989, first “veil” controversy

Hanoufa Chérifi, author of an official report in 2005 on the application of the 2004 law, brings the origins of the law back to “Créil, September 1989” (30). The Créil case constitutes to one of the first instances in which the hijab and its wearing in public schools became the object of a debate, in 1989. Another case earlier in the year, in June, was narrated in one newspaper, but gathers less attention due to its quick resolution when the parents and the school administration reach a consensus early enough (Otteneimer). In September 1989, three Muslim girls – Samira Saidani, of Tunisian origin, and Leila and Fatima Achaboun, sisters of Moroccan origin – students in the Gabriel-Havez middle school in the city of Créil, were refused access to classes due to the intervention of the school’s principal who states that “the problem isn’t with their belief, but with the external manifestation of these beliefs within the school grounds” (INA 1989) The Créil cases start bring massive media coverage: major French publications such as *L’Humanité*, *Le Parisien*, *France Soir*, *Le Monde* publish series of articles in the week between Thursday, October 5th and Tuesday, October 10th and *Le Point* publishes in its issue dating from October 16th a 6-page report entitled “Should we let Islam inside our schools?” (Le Point 1989) Quickly adopting a pessimistic tone, major French press immediately draws a link between the headscarf, Muslim fundamentalism, and the immigration wave of the seventies that welcomed millions of immigrants from Muslim-majority countries that used to be French colonies (Algeria, Morocco, Tunisia)

The Créil case had broader repercussions and becomes an object of support for several anti-racist associations such as SOS Racisme or the Mouvement contre le racisme et pour l’amitié entre les peuples. The minister of Education at the time, Lionel Jospin, supports the position of the school administration, stating that the school remains a space where “signs of one’s own religious belonging shouldn’t be displayed, in a conspicuous or ostentatious manner” but however affirms that “school is made to welcome children and not to exclude them” (Bowen 82)

The case itself is settled on October 9th, 1989, when the parents and the school administration reach a consensus. Nonetheless, the Créil case opens the door to broad media and politic attention on the question of the Islamic veil inside of public schools. Other cases of young girls wearing the hijab in public schools not being allowed access into the classroom or inside the school campus are being reported in the days following the Créil case. Newspapers start publishing

articles and reports on schoolgirls wearing the veil, and even on Islamic schools (Bowen 83). On October 22nd, a protest against the decisions of many schools to forbid the wearing of the Islamic veil in their grounds is organized in Paris, gathering up to a thousand of protesters according to *Libération*, versus a few hundred according to *L'Humanité*. Nonetheless, it is still important to bring up a question: why did this case emerged in 1989? Why not before, as the veil was being worn by Muslim girls beforehand without a form of disapproval coming from school administrations as mediatized as the Créil case? A similar case in October 16th concerns a girl expelled from her vocational high school in the city of Avignon for wearing the headscarf when she had been wearing it for two years in middle school and two months at the high school without any issues (“18 Septembre Au 22 Décembre 1989 : Un Automne En France Et Dans Le Monde.” 101)

John Bowen argues that the domestic climate as well as “foreign threats [,] made scarf-wearing into a national affair.” (83) He argues that there was an increasing disappointment with the Left in power the 1980s, represented by President Francois Mitterrand, that turned the political attention to Islam. On the other side, Bowen also argues that the attention on Islam as a “threat” came from a combination of international events that “brought together several related fears about Islam”: the famous fatwa put on the author Salman Rushdie by the Ayatollah Khomeini, bringing the fear that “[Islam] was intolerant; that Muslims, once in power, would kill those who left the religion [...], that the relative success of the Iranian mullahs meant that Islam was on a worldwide roll [...].” (83) Interestingly, he also highlights the fact that the Gabriel-Havez shared a few months before the case, a school class photo showing with a young girl wearing the veil “as evidence of the [...]school’s openness to cultural diversity!” (83)

Media and public intellectuals help bringing the “veil controversy” to public visibility nationwide. In fact, John Bowen writes that the veil wasn’t as mentioned in the media before 1989: a browsing of the *Le Monde*’s mentions of the veil before that year show that the only mentions of Islamic garb referenced concern Muslim-majority countries, not France or French Muslims. Yet, as he also writes, during the week of the Créil affair, several newspapers and publications were publishing several features that were connecting the Islamic veil to global trends of Islamic fundamentalism, to the fatwa on Rushdie, or the Iranian “chadors”. *Le Nouvel Observateur*, for its October 5th issue, had titled its cover “Fanaticism: The Religious Menace”, along a picture depicting a “girl in a full, black chador” (Bowen 84) *L'Express*, a major

publication, titled its feature story on October 26th. “The Secular School in Danger: The Strategy of Fundamentalists.” Intellectuals write and share their opinions about the place of the Islamic veil and of religions in school; while some fear that laïcité might be threatened by the increasing visibility of religions, like journalist Guy Coq who asserts that “[the upholding of tolerance] would die if the different religious communities would compete to seize the laic space of the school [...]” (Le Monde 2007) – others try not to oppose laïcité and integration, like write Leila Sebbar: “Laïcité yes, but not by any means. Three veils versus the integration of three million Muslims in France.” (Le Monde 2007)

In November 1989, two open letters written by intellectuals offer testimony of two strongly opposed positions: on one side, a letter to Jospin titled “Teachers, Let’s Not Give In!”, signed by Elisabeth Badinter, Régis Debray, Alain Finkielkraut and others, called out against “communitarist pressures”, argued that “by allowing de facto the Islamic veil, symbol of female submission, you are giving a blank check to [...] the harshest patriarchy on the planet” and called the situation a “Munich of the Republican school (Badinter et al. 1989) On the other side, another letter titled “For an Open Laïcité” claimed that, although they “did not support scarves in schools,” they “opposed exclusion” and denounced a “Vichy of the integration of immigrants.” (Bowen 85)

What is the reaction of the French public to these cases? Several polls, carried out by major newspapers, aim to take the a sample of the public opinion regarding the controversies. On October 30th, a poll realized for the newspaper *Le Journal du dimanche* shows that a majority of French students in public schools (the respondents where aged between 12 and 17 years old) deem that the headscarf should not be banned in schools, and that 72% of the surveyed teenagers replied that they do not find shocking to be affirming one’s religious affiliations through religious symbols for instance. As proselytism and public order within schools was often brought as an argument for the proponents of the prohibition of the veil in schools, these figures reveal that a large majority of those primarily concerned – the school students – do not feel bothered by headscarves or other visible religious symbols from their peers. (“18 Septembre Au 22 Décembre 1989 : Un Automne En France Et Dans Le Monde.” 104)

A poll in *Le Monde*, whose results were published on November 30th, 1989, aims to show the differences of opinion between “French citizens” (non-Muslims) and residents (regardless of their nationality) who claim to belong to a Muslim family. As the formulation of the poll is

questionable – as Françoise Gaspard and Farhad Khosrokhavar argue in *Le Foulard et la République*; there is no such thing as the “French” on one side and the “Muslims” on the other, especially when so many “French” citizens are of Muslim confession or of Arabo-Berber origin – the results are still telling. 75% of the “French” claim to be hostile to the veil in public schools, 17% indifferent, 6% unfavorable. On the other side, 45% of the “Muslims” claim to be opposed to the veil, 30% are favorable to its presence in public schools, and 22% are indifferent. (Gaspard and Khosrokhavar 27)

The debates ended up reaching the political sphere as the topic is discussed words in a parliamentary session on November 3rd, 1989. Lionel Jospin stands criticized by his own political party, the Socialist Party and other left-leaning parliament members who criticize him because of his statements in October, in which Jospin stated that the school was designed “to welcome and not to exclude children” and leaned towards reintegrating girls in the classroom if dialogue with the school administration did not succeed. In November 1989, Jospin decides to ask for legal advice from the Conseil d’Etat, [State Council] a body that acts as an adviser on legal affairs for the executive branch of the government, but also as a supreme court for administrative justice affairs.

In December 12th, 1989, the ministry of Education releases a directive to all school administrations and rector’s councils titled “Laïcité, wearing of religious symbols by pupils and the mandatory nature of classes,” based on the State Council ruling given a month before. The directive directly addresses the “controversies provoked by the wearing of a veil by some young girls of Islamic confession” and reports the opinion shared by the Conseil d’Etat, which affirms there cannot be a “general and absolute prohibition of the veil or any other religious symbol, but that the wearing can be prohibited in function of the principles that... and according to specific circumstances.” Further in the directive text, it affirms that “the wearing of religious signs by pupils isn’t in itself incompatible with laïcité, in the measure as it is relevant to the exercise of freedom of speech and manifestation of religious beliefs affirmed by the Constitution, the international conventions ratified by France and the fundamental principles acknowledged by the laws of the Republic.” (Education nationale, Jeunesse et Sports 1989) However, the same text affirms that this freedom should “not allow students to display signs of religious belonging that, by their nature, by the conditions in which they are being worn individually and collectively, or

by their ostentatious or claiming character, would constitute an act of pressure, provocation, proselytism or propaganda [...]” (Education nationale, Jeunesse et Sports 1989)

As it can be read, there is no active opposition to the Islamic veil or to any other wearing of a religious symbol expressed in the directive, as long as the clothing doesn't constitute an act of “pressure, provocation, proselytism or propaganda”. The Conseil d'Etat itself does not call for an absolute ban of any religious symbols – even if it is worth noting that the directive discusses the issue as coming from the several veil controversies addressed in the media. The question of the veil was more than a simple religious affair in the French social and political framework. It was also taken in a broader national questioning on integration of immigrant groups, coming from Muslim-majority countries and former French colonies (notably Morocco, Algeria, Tunisia). After the Créil case, the government created an institution known as the High Council on Integration on a governmental body charged with researching and giving policy advice on matters of integration of immigrants. Over the next years, as Bowen notes, other cases involving girls wearing a headscarf being refused admission in schools emerge. Some of them reached administrative courts and the State Council, which maintained its initial ruling on which students may be allowed to wear scarves as long as they do not disturb public order within the school grounds, do not engage in proselytism or other misconducts. “[...] Of forty-nine legal disputes over headscarves that reached the Council between 1992 and 1994, forty-one ended in favor of the schoolgirl. But on a number of occasions, the State Council backed the school [...] in expelling a girl if it could be demonstrated that she was frequently absent from school, engaged in proselytism, or refused to remove the veil scarf for required sports or chemistry classes [...]” (87)

When exploring the chronology of the headscarves controversy and understanding how all religious symbols were finally concerned by the 2004 law, it is important to also bring attention to other religious signs or symbols and the way they were portrayed in the media or by politicians. Were religious symbols other than the Muslim headscarf brought to such a mediatic forefront in 1989? Pierre Birnbaum, author of *Destins juifs: De la révolution française à Carpentras*, a book about Jewish history in France, mentions a 1991 case in which a Jewish student was excluded from a high school in the city of Nice for missing classes on Saturday morning because of his religious obligations during Shabbat. The decision was validated by an administrative court on the legal basis invoking the need for regular school attendance from all

students. Another TV report of the France 2 Journal of 8PM focuses on the kippah and the decision of the Voltaire high school in Paris to forbid all religious symbols after the 1989 Créil cases. The Voltaire high school welcomes a minority of Jewish students that wear the kippah regularly. Interviewed students (none of them Jewish or seemingly concerned by the school's decision) declare agreeing with the school's decision, based on the fact that the wearing of religious symbols could cause "clans" or rivalry between religious groups within the school, or that everybody should dress up "normally". The narrator affirms that the "kippah has rarely been an issue in public schools," while an executive member of the main umbrella organization of French Jewish organizations, the CRIF (Conseil Représentatif des Institutions Juives de France), interviewed, draws a distinction between the kippah and the veil that he doesn't view to be on the same level: "[the kippah] never consisted of a sign of non-membership of the French community, or of exclusion to the laws of the Republic" (INA "LA KIPPA" 1994) There has not been as much media coverage on the kippah or other religious symbols as the headscarf, and when the attention was brought on the kippah, it was for reasons external to the symbol in itself (e.g. repeated absences) or to show the point of view of the Jewish community, who while opposing the prohibition of all religious signs in schools, did view the headscarf as an issue.

The 1989 Créil case is the foot-in-the-door case that brought the Islamic veil as a controversy within school grounds to the public forefront when a few years ago, it did not seem to pose a problem for school administrations or regular citizens. Its appearance as object viewed as problematic and controversial will mark French society from the decades to come. Gaspard and Khosrokhavar describe the three weeks that followed the first mention in the media of the Créil case as a "a punctual, local event, dealt with by basic journalists, [that] became a social question commented upon by the "grand names" of national press. The debate doesn't die. Written press is invaded by articles on Islam and laïcité." (17) Créil marks the beginning of a spotlight being brought to the Islamic veil as an object incompatible with Republican laïcité and French values. It marks the beginning of series of "veil controversies" that during the 90s decade, will agitate public opinion while the government remains without a general ruling on the matter, preferring to rule by "affaire d'espèce", by the specifics of each case. Bowen also notes an interesting fact: "The day following Leila and Fatima's readmission, December 3rd, 1989, the [Front National] scored its most spectacular victory to date, winning 61 percent of the parliamentary votes in the community of Dreux, west of Paris." (86-87) Even if Bowen seems to

draw a possible causal link between a political victory of the FN and the foulard controversies, 1989 still remains the date in which the veil made its appearance as a major threat in the Republican school's courtyards, when it did not seem to be an issue beforehand for school administrations.

2.2. 1990-2003: New headscarf controversies

The 90s decade follows with its share of controversial incidents opposing several Muslim girls and school administrations. Gaspard and Khosrokhavar write that the atmosphere in public schools, between the end of 1989 and fall 1994, was, "in most [cases], [an attitude] of dialogue and tolerance" (Gaspard and Khosrokhavar 188) arguing that the majority of cases were solved with dialogue between the families of the Muslim girls concerned.

Similarly to the 1989 Créil cases, the increase in reported cases is handled by the media with pessimism, leading to a change in perception of the Islamic veil by the French public and thus a shift tending towards prohibition in the government's response. In September, a TV report showed students at the Romain Rolland high school in Goussainville who created a group in support of 4 Muslim schoolgirls who were expelled from wearing the veil. The group of students blocked the high school for an entire day, and the report shows the presence of police cars the day after the student demonstrations. A professor, interviewed, speaks of "terrorism" when talking about the interactions between the students protesting by blocking access to the school, and the rest of the students (INA October 1994) On October 3rd, the police was even called to prevent 22 Muslim girls wearing headscarves from entering the Faidherbe high school in the city of Lille, as they were accompanied by a hundred demonstrators supporting them. Furthermore, two major cases in 1990 occupied a great place in media coverage. The two cases, one from the city of Nantua, the other taking place in the city of Grenoble, involved Muslim schoolgirls, who were expelled from their respective schools. The Grenoble schoolgirl, named Schérazade, had decided to keep her hijab on during P.E. class and was expelled; she even decided to go on a hunger strike that lasted almost a month while living in car parked in front of the school, attracting worldwide press attention. (Bowen 88) The Nantua case included four Muslim girls who were allowed to wear their headscarf in class but when asked to remove it for P.E. class, refused and were subsequently expelled from the school. Teachers complained against the headscarf, claiming that it "is discriminatory in its treatment of girls and segregationist." (Bowen

87) and the two cases were quickly opposed to each other. The girl from Grenoble had converted to Islam by her own accord while facing initial resistance from her parents, while the Nantua girls had their parents and brothers speak for them in public, and even had “two self-proclaimed Islamic authorities [declaring] that Islam required women to cover themselves.” (87) In both cases, the girls’ expulsion was validated by the State Council in 1995 for the reason that both the hunger strike and the intervention of external actors – the attention of these “Islamic authorities” – were considered trouble to the public order of the school and thus valid reasons for expulsion.

Furthermore, the media was intertwining coverage of headscarf affairs with that of the Islamist threat and violence happening in Algeria at the time. In fact, a Islamic fundamentalist movement, the Front Islamique du Salut (FIS) created in 1989, had taken a much more radicalized path in response to political turmoil emerging in Algeria in 1991. The FIS created a militia, the Groupe Islamique Armé (GIA), responsible for several terrorist attacks in Alger and other Algerian cities, targeting French authorities and citizens. In May 1994, two French clergymen are assassinated in Alger; in August 1994, three French policemen as well as two French embassy officers are murdered in the same city. These events set up what is known as the Algerian Civil War (1991-2002) or what is called now the “second Algerian War” (90) The French government reacts vehemently to these attacks, as the Interior Minister Charles Pasqua launches a security crackdown on French banlieues, its “difficult neighborhoods” and arrests a number of French Muslims of Algerian origin following the August 1994 attacks (90) Bowen writes that “television programs in 1993-94 often linked the foreign to the domestic, placing coverage of “headscarf affairs” in the same time slot as coverage on ongoing fighting in Algeria (which at the moment was constantly on the news), rather than with other social issues. ‘For the average viewer, the conclusion is obvious: headscarf = Islam = terrorism,’ complained one young “believing but non-practicing” Muslim businesswoman.” (90) Newspapers and magazines were also drawing links between French Muslim schoolgirls and the Islamic threat: *L’Express* publishes a special issue on April 29th, 1993 titled “The Islamists”, focusing on Algeria, Egypt and France. On November 17th, 1994, the same magazine featured a cover with a woman in a black head covering and the title “Foulard, the Plot: How the Islamists Infiltrate Us.” (Bowen 90) Intellectuals that were against the authorization of headscarves in 1989 push further and affirm the idea that the headscarf is a manifestation of Islamic fundamentalism: André Glucksmann calls the headscarf a “terrorist emblem” (Bowen 90) At the same time, the public opinion on the

headscarf was increasingly against it. In 1994, 86% of the French public opposed authorizing the wearing of the headscarf in schools (Cue).

On September 20th, 1994, the minister of Education at the time, Francois Bayrou, releases a new directive addressed to all public school administrations in an answer to an increasing demand of clear legislation and measures coming from professors. In this new directive, Bayrou requires all school administrations to ban all religious symbols on the basis that “their meaning is precisely to take some pupils outside the rules for living together in the school.” (Bowen 89) He affirms that the Republic “excludes the breakdown into separated communities, indifferent to each other, only considering their own rules and their own laws” and explicitly opposes the wearing of “ostentatious” religious symbols in school, justifying that decision on the basis that “these signs are, in itself, elements of proselytization; even if the directive reiterates to professors that “our duty is before all, education.” (Education Nationale, Jeunesse et Sports 1994) Nevertheless, through this directive, the government decides to take a clear position against the wearing of any religious symbols in schools. It contrasts with the previous Jospin directive, which asserted the compatibility between laïcité and the headscarf – given that the headscarf was considered within the boundaries of freedom of expression – and which, following the 1989 State Council decision, states that a general prohibition of the wearing of headscarves in schools was not conceivable. The government’s shift in policy is noticeable – coming from pressure from media, teacher unions, and public opinion. Teachers applaud the decision, as more than a hundred girls are expelled following the directive. The total number of girls expelled based on the headscarf went from the “low hundreds to the two thousands” in the years following the directive (Bowen 89) Two expelled girls even recall how their teachers argued that they couldn’t have what happened in Algeria happening here (90) However, several of these cases were brought in front of courts, even up to the State Council, that would prove the Muslim schoolgirls right if they showed that the scarf was the sole reason for expulsion. In fact, despite the instructions of the directive, students could not be expelled from public schools for the simple reason of wearing a headscarf, and throughout 1996-1997, the State Council would side with the schoolgirls unless it could be proven that they had violated the rules of the school, missed classes repeatedly or had engaged in proselytism. (91-92) Over the few years, the number of “headscarf incidents” per year fell to 150. (92)

In the mid-1990s, on the legal realm, the jurisprudence of the State Council was prevailing on disputes opposing Muslim schoolgirls and school administrations. The “Islamic peril” was becoming a regularly cycling story across covers of major newspapers like *L’Express*, *Le Point* or *le Nouvel Observateur*. Also, new domestic terrorism concerns arise when a series of bombings between July and October 1995 is carried out by the GIA in Paris and the Lyon regions, the deadliest being set in Paris regional train network, killing 8 and hurting 200 passengers. Anxiety reaches a new peak, as is made the “the amalgamation of mental categories of Islam and terrorism” (Silverstein 130) The theme of the suburbs, the “banlieues”, the “dangerous neighborhoods” surrounding major cities like Paris, Lyon or Marseille also became a recurrent topic in the news, as the topic of “ghettoization” started to worry the French public (Bowen 92) The 9/11 World Trade Center attacks also reinforced the fear of Islam, and the link to the headscarves was made by the media, just like in previous attacks. Bowen writes about the change in tone used by Hanifa Chérifi, the Education Ministry mediator in charge of headscarf affairs, who interviewed after a new headscarf affair in 2002, told that while “many claimed that the headscarf gave a girls a space of freedom between the family and the society, “we have neglected the intrinsic significance of the voile: to remind women, starting at puberty, that Islamic morality forbids mixing of the sexes in all public spaces, including the school.” (93)

Late in 2002, a new series of scarf affairs started to bring national and even international media attention. They began in Lyon, which also happened to be one of the locations for new Islamic movements, but also radical activists (93). In December, a teacher at the La Martinière high school, Jean-Claude Santana, complained to the school administration about a schoolgirl, Fatiha, who was wearing a headscarf. She had begun to wear a bandana in December, which was allowed, but then started unrolling it up so that it covered her hair. National television, and even the *Wall Street Journal* came to report on this case. As the school administration refused to suspend her, by fear of having the expulsion being overruled by the State Council, 80% of the teachers at the school decided to go on strike in March. They had beforehand issued a statement that said “[...] the student considers her scarf to be a sign of her belonging to a community and her religion, thus it is meant to attract attention (is *ostentatoire*), and our internal rules forbid that.” (Bowen 94) Fatiha had been wearing a bandana since the beginning of the school year in September, yet she attended all her classes and had not been noticed for any other kind of

behavior in class. Chérifi was asked to intervene, and after the superintendent of the school had met with the teachers, they decided to end their strike.

This case brought to popular consciousness the possibility of the bandana as a form of head covering that would seem less “Islamic for the teachers and thus more acceptable but perhaps cover enough hair to satisfy some Muslim girls.” (96) But the case also showed that some teachers were willing to disturb the entire school for one girl in a headscarf, to protect a form of laïcité that they deemed proper in public schools, beyond the laïcité of the State Council. Santana said in an interview that they, the teachers, were defending “the Laïcité. Not the idea expressed by the State Council, laïcité with multiple standards. [...] The school’s mission has a liberating ambition: to give citizens-in-the-making the means to free themselves from social, cultural, ethnic or gendered determinism.” (96) The main challenge to the rulings of the State Council was then placed: according to the schools, it was laïcité’s mission to protect students from external pressures, which required “active intervention by the state against pupils and families who try to exert such pressure.” (96-97) As Bowen put it, it was a time where “we are [...] far beyond the idea of the state’s neutrality [...] The grounds had shifted; a confrontation seemed more likely.” (97)

The 2000s also saw a more politically charged environment on the topic of the headscarf. The then Interior Minister Nicolas Sarkozy gave a speech at the Rencontre Annuelle des Musulmans de France, a yearly salon organized by the Union des organisations islamiques de France (UOIF), one of the major umbrella organizations of Muslim associations in France. This “inflammatory” speech, in which Sarkozy spoke of the need for Muslim women wearing the headscarf to remove it during identity pictures, and in which he criticized religious associations that “skirted the Republic’s laws by registering with the government as cultural associations (Meiers 9)

A new headscarf affair emerged, grabbing immediately the attention of the media, in 2003. Alma and Lila Lévy, two sisters enrolled in the Henri-Wallon high school in the city of Aubervilliers, a northeastern suburb of Paris, showed up in headscarves in September following up a personal conversion to Islam. Their parents didn’t approve of their conversion, which “did scare people [who were looking] for the radicals we must have put them up to it” (Bowen 111) As with earlier cases, school administration looked for compromise, by trying to convince the sisters to wear a “light foulard” versus a “foulard islamique”, to which the girls refused – which

led to their expulsion. As with previously highly publicized affairs, this incident led public figures to use the case as an occasion to sound their slogans. (111-112) The Mouvement contre le Racisme et pour l’Amitié entre les Peuples’s general secretary, Mouloud Aounit, used the expulsion to denounce “islamophobie” in France. (112)

2.3. 2003-2004: The Stasi Commission and the establishment of the law

On July 3rd, 2003, President Jacques Chirac announces the constitution of a commission, constituted by twenty members (sociologists, professors, politicians, school administrators...) led by Bernard Stasi to report on issues associated with laïcité, but mainly understood as focusing on headscarves. The initial goal of this commission did not seem to be a new law: the commission began working without knowing the outcome of its reports, and most commissioners did not favor a new law. (Bowen 113) Most commissioners started unsure of the necessity of the law, yet at the end of it, eighteen voted for a new law, with only one abstention. Why?

The commission auditions 140 different people representing civil society – professors, teachers in public schools, clerics, on various topics concerning laïcité and the place of religion in France. In fact, the commission made a large number of recommendations on religious life in France, with only one of these recommendations being on clothing. Bowen writes that “many of the commissioners reported their frustration that only the scarf issue was taken seriously as an item for immediate legislation” (113), yet of course the debates were all focused on the headscarf, the place of Muslims in the Republic, “and more particularly of Muslims who showed themselves in public as distinct from other people. [...] The anger and the discussions and all the news articles and television programs were about whether and how Muslims could fit within France.” (113-114) He adds as well that as much as there was a large array of issues on which the commissioners wanted to focus, the topics brought up by the commission were only deemed relevant “only insofar as they involved the public actions of Muslims and the questions of headscarves.” (116) Unemployment in the suburbs and discrimination were topics brought before the commission, but it decided to stop at giving a general plea to stop the issues instead of digging further, as the topics were thrown into the mix “to cover the bases”, Bowen writes (116)

The representation within the commission as well as within the 140 people heard was surprising. In fact, among the commissioners was no one “likely to present the views,

experiences and interests” of Muslim schoolgirls. Plus, while the Stasi commission listened to a wide range of people, the commission did react differently to different kinds of witnesses, listening attentively to professors and school principals, but providing suspicion to the few Muslim witnesses who supported the law: “At one point, Jean Baubérot [member of the commission] chided his colleagues for suspecting a priori everything stated by Fouad Alaloui, the secretary-general of the UOIF.” (117) Another strong and surprising lack was the lack of Muslim schoolgirls heard by the commission, when of course they were the ones mainly concerned by the results of the commission. Louisa Larabi Hendaz, author of *Le voile humilié ou les auditions manquées de la commission Stasi* [“The humiliated veil or the missed auditions of the Stasi Commission”], writes: “Among hundreds of people auditioned, only two women wearing the headscarf were heard by the commission in the last place. [...] But even then, other veiled women were refused to audition, when they are the firstly concerned. The panel of experts gathered by the Stasi audition remains very disputable because it is not impartial.” (84) The commissioners would frame most social questions by centering the voile, visible especially when Jean-Louis Borloo, Urban Affairs Minister, and heard on the question of insufficient funding for social and economic problems in the suburbs, “began by selecting as major problems the equality of men and women, girls in headscarves, and attitudes towards those girls who do not wear the voile.” (117) Even more surprising for a governmental commission, Bowen writes that few believed that the teachers and principals surveyed by the commission were representative of teachers in France. The teachers asked to testify had usually encountered a girl in a headscarf and had stories to tell about problems with Muslim students. Yet, 91% of all teachers in France had never encountered a student in a headscarf at their current school. Yet, the teachers who testified tended to generalize their sense of crisis to other teachers and other schools. (121)

Furthermore, the unwillingness and thus the impossibility of the commission to hear other viewpoints than those who placed the headscarf as a negative object led the commission to have an already-formed opinion on the headscarf. When giving back the commission’s report to the President of the Republic Jacques Chirac, Stasi announces on television that “a law will finally relieve “thousands” of Muslim women who refuse to wear the veil,” (Hendaz 85) and even adds that “even though there are several explanations to the veil, it is objectively a sign of women’s alienation. It is possible that young girls might wear it to mark their independence. They mainly wear it because their parents, their brothers, religious organizations, force them to

do so. If they don't, they are insulted.” (85-86) Hendaz denounces a simplistic and condensed understanding of girls wearing headscarves, when commissioners stated that “a majority of Muslim women doesn't wear [the veil] and doesn't want to wear it. Where do they get these so-called percentages when they affirmed that they are unable to count how many girls wear it in schools?” (86) Ultimately, the commission gives back its report on December 11th, 2003. On the topic of headscarves in schools, it recommended that in all public schools, “appearances and signs displaying a religious or political affiliation be forbidden. [...] The forbidden appearance and signs are *signes ostensibles*, such as large crosses, voiles, or kippahs. Discreet signs such as medallions, small crosses, Stars of David, hands of Fatima, or small Qur'ans are not regarded as signs displaying a religious affiliation.” (Bowen 123-124).

Politicians ranked then behind the necessity of a new law, both from the Left and from the Right, even if some doubted its advisability. A member of the national Socialist leadership (the second main party of France at the time) reported that at the meeting preceding a declaration in support of the new law, “everyone rallied to it but considered it stupid” and that many who would later speak passionately for it were reluctant converts. (124)

Nationally, public opinion was strongly supporting the new law. A poll conducted on December 3rd, 2003 found that 72 percent of those interviewed favored a ban on all “visible signs of religious or political affiliation in public schools” (124), which represented a strong shift from the 49 percent who were supporting the law in April. However, the increase is not surprising. On the extensive mediatic coverage of headscarves, Bowen affirms that each French citizen, between September 2003 and February 2004, would have read an average of two articles each day on the voile in each of the three major news dailies, “including stories about a series of Islam-related threats to the Republic: covered women at swimming pools [...], patients refusing to be treated by male doctors, jurors wearing scarves while in court. and Muslims approving the stoning of adulterous women and booing the interior minister.” (125)

Once the President Chirac delivered his December speech proposing a new law against religious signs in schools, it became clear that France's legislative bodies would vote for the law in some form. (128) Demonstrations opposing the law project followed in December, January and February, yet the law got successfully voted on February 10th, 2004 by the General Assembly in a large majority (494 votes in support of the law, 36 against it), followed by a similar vote of the Senate and leading to the 2004 law officially dated from March 15th, 2004.

A chronological observation of the social and political context that led to the 2004 law allows to observe that the law was created as a socio-political reaction to the phenomenon of the headscarf in schools. Being the “issue” to which this law wanted to answer, the headscarf was the object of mediatic exposure, political obsession and public scrutiny – even if all religious symbols and signs ended up being prohibited, it was indeed the headscarf that was pointed out as the main “problem.” But why did it start being a problem in the first place? Why wasn’t it an issue before the Créil case of 1989? As seen in the first chapter, before Créil, most public schools tolerated the headscarf, and even saw it as a sign of coexistence – as the Gabriel-Havez school was proudly affirming before 1989.

An answer to that question can be found in Cécile Laborde’s analysis of the 2004 law in *Critical Republicanism*: pointing out the absence of rules against the wearing of religious signs by pupils in schools, she argues that the “problem” with Muslim headscarves was “not merely that they were a religious symbol, but that they were a particularly *visible* one.” (63) Indeed, until 2004, it was up to the school administrations to decide whether or not a headscarf worn by a student was considered “ostentatious” or not. Laborde follows up by stating that “it is obvious that the criterion of ‘ostentation’ was designed specifically to target Muslim signs, and that it relied on a highly contestable notion of unacceptable visibility in the public sphere.” (63)

The creation of the headscarf as a “threat” or a “problem” cannot be pinned to a single actor but indeed finds a blame in the actions and opinions of many: interpretations from professors, considerable mediatic coverage on headscarf “affairs”, bias and impartiality from politicians, along with the shadow of Islamic fundamentalists within and outside French national borders. This mix of factors gave birth to the 2004 law as France knows it for more than a decade now, a law that arose from an initial antagonism from the French political class towards the headscarf.

III – ANALYZING THE APPLICATION AND THE IMPACTS OF THE LAW

As seen in the previous chapter, the 2004 law stems from the extensive media and political attention suddenly brought on the Islamic headscarf in the beginning of the 1990s, as well as from the necessity felt by the government to appease the opponents and critics of the veil and to control what was increasingly perceived as a threat to the ideal of the Republican school. Even if the legislative text does not make specific mention of the veil or any other religious symbol, and aims to forbid all religious symbols and pieces of clothing altogether, it was written with in mind the issue of the Islamic headscarf. As such, I hypothesize that due to the amplified attention given to the veil by legislators and media, that the application of the law is also exaggeratedly affecting young Muslim girls wearing the veil in schools. Furthermore, I argue also that the law, as well as the debates that preceded it, also brought inflated concern on the Islamic headscarf and its place, not just in schools, but in the French public space in its entirety.

In my initial model (*Model 1*), I defined the 2004 law as a variable that I named “Law (Universal Language with Differential Impact)”. In this chapter, I will look at data and present literature and data showing the ways in which the 2004 law’s universal language affected the French Muslim population, by focusing on the aftermath of the law. Muslims in France represent 7,5% of the total population within its national borders, according to a Pew Research Survey realized in 2010.

I am looking at several reports from both the government and from the Collectif contre l’Islamophobie en France, a non-governmental organization in France that observes and reports on the number of islamophobic incidents, and offers judicial assistance to the victims of islamophobic crimes. The organizations’ objectivity as well as its methods of reporting have been discussed as they base their releases on cases that are directly reported to them, unlike the Observatoire national de l’islamophobie that bases their figures on complaints brought before French police. Nonetheless, they remain an important source of statistics concerning the state of islamophobia in the country, and have gained legitimacy and a consultative status alongside the United Nations – while, interestingly, the Ministry of the Interior does not consider the CCIF as a partner and prefers to work solely with the Observatoire. The CCIF remains criticized by its detractors that reproach it to focus excessively on aggressions against veiled women – according

to a CCIF report from 2011, the profile of the veiled Muslim woman in a public space or service constitutes the typical profile of the victim of islamophobic incidents (Meziti 92)

An official report on the assessment of the law accounts for 639 religious signs reported during the academic school year 2004-2005. Among these 639 signs, “two large crosses, eleven Sikh turbans, and the other signs all Islamic headscarves” (Chérifi 34) On these cases, 533 young Muslim girls decided to remove their headscarf, 67 decided to go to school abroad, 47 were expelled from the school, 26 decided to take classes from home, 12 were allowed to go to class as long as they were wearing a “discreet veil” The table also mentioned 3 young Sikh young boys getting expelled as well. (“Laïcité et port de signes religieux à l’école 2012)

More than the simple prohibition of headscarves and other religious pieces of clothing or signs in school, other incidents involving the veil reveal an increase in a negative depiction of the veil, as well as a broader application of the laïcité principle in other public spaces. In article issued in December 2005 in *Le Point*, the first line writes: “The law of March 2004 on religious signs in school sometimes has unexpected consequences. Applicable in school grounds, it sometimes spills over.” (Le Point Apr. 2017) It then tells the story of several veiled Muslim women who were refused service in public services (city halls, voting booths) because of their headscarf. One received a letter from the prefect of the region of Seine-Saint-Denis, when she went to pick up her residence permit, saying that her veil was a “sign of affiliation to a fundamentalist form of Islam” and that as result she did not prove her “republican integration in the French society, in accordance to the current regulation.” (Le Point Apr. 2017) Other cases describe a veiled woman who wasn’t allowed to be the witness at a wedding that took place in a city hall, and three women who weren’t allowed to vote in a polling booth because of their headscarves. These situations, along with many others, witness the scale in which the 2004 law affected women wearing headscarves, and not just Muslim schoolgirls who were supposed to be protected from familial pressure or students from proselytism – the 2004 law apparently enabled a form of discrimination to be enforced against women wearing headscarves in places where the law was not applicable.

My model contains a variable based on what I named “Discrimination Sentiment” – basically how discriminated against, marginalized, alienated French Muslims feel or perceive themselves to be in French society. As I hypothesize that the 2004 law affected French Muslims disproportionately by bringing negative attention on the Islamic headscarf and brought negative

perceptions of Islam to the French social stage, I deem essential to dedicate a section of my analysis to perceptions of Muslims of their own place in French society. In order to grasp this factor, I based myself on Pamela Irving Jackson and Peter Doerschler's analysis of 2002, 2004, 2006 and 2008 data coming from the European Social Survey reported in their book *Benchmarking Muslim Well-Being in Europe*, as well as the interviews made with the Muslim respondents in part 4.2.

Looking at their results on Muslim's experiences of discrimination compared to non-Muslims in France, there are a few figures that are worth pointing out. First, the percentage of Muslims identifying with discriminated groups. Jackson and Doerschler separated discriminated groups into different types: race, religion, nationality, ethnicity. For instance, over 2002 and 2008, 15.8% of Muslims replied belonging to a discriminated group because of their religion, and 24.4% because of their race. (Jackson and Doerschler 110) It is quite surprising that most Muslims feel belonging to a discriminated group based on their race than on their religion, but it also highlights the racial component of discrimination against Muslims, born also from the existing xenophobia and anti-immigrant sentiment existing in France. Discrimination against Muslims is multi-dimensional; as a report on multiple discrimination from the European Union Agency for Fundamental Rights (the FRA) points out, Muslims are particularly vulnerable to discrimination triggered by more than one aspect of their identity. (Jackson and Doerschler 112-113) A *Eurobarometer* survey also reveals an interesting figure: first the progression in the percentage of Muslims claiming membership in a discriminated group. A table shows that while 30.8% of Muslims claimed membership in a discriminated group in 2002, this number increased in 2008, reaching 42.4%. (Jackson and Doerschler 111)

4.2. Analysis of qualitative interviews

4.2.1. Introduction and Methodology

In order to understand the ways through which the 2004 law has been playing a role in disproportionately marginalizing Muslims according to my hypothesis, I deem it is crucial to "measure the temperature" concerning state-religions relations in France by getting a sample of opinions on the 2004 law, *laïcité*, islamophobia, the state of religion in France before and nowadays. I hypothesize the establishing of the law, as well as the media attention brought on the Islamic veil specifically (rather than on other religious symbols also targeted by the law) have had an impact on the ways French citizens – regardless of their religion – view the State and its position on

religious affairs today, Islam in France, laïcité, the 2004 law. As such, I have been carrying out qualitative, informal interviews to question French citizens of all ages, religions and convictions on the aforementioned topics. I have interviewed a total number of 11 participants, both in person and via Skype.

Before proceeding to the analysis of the subjects, it is essential I acknowledge the fact that limited resources and time for this thesis have affected my capability at effectively obtaining a representative sample of French citizens and their views. These qualitative interviews don't have the objective of being a representative sample of the French population. However, they have brought to my project several questions and angles of view that I aim to address in this paper, and maybe raise questions that I hope to answer in the future.

The questions the respondents were asked were organized in three parts. The first is composed of introductory questions of demographic order – concerning the respondents' age, gender, professional occupation, nationality, personal religious background as well as parents' religious background. Through the second part of the interview, respondents were asked about their perception of religion and its place in the French society: according to them, what is the place France allows to religion in public spaces? How is religion approached and discussed in the French society? Has the place of religion in the French public debate changed over the years? If so, how and when? Finally, the last set of questions would vary depending on the religious background of the respondent. If the respondent would define themselves as Muslim, they would be asked on their experience on being Muslim in France. Have they ever felt discriminated against because of their religion? If yes, they would be asked to talk further on their discrimination experiences, and whether they have experienced similar discrimination throughout the years. The goal of these questions to Muslim respondents would be to understand their perception of islamophobia in France, whether or not they have felt affected, and especially if this has changed over the years, evolved with events or time. If the respondents defined themselves as other than Muslim, they would be asked about their opinion on specific religious expression in public spaces (the street, public schools, hospitals, town halls, workplaces). Non-Muslim respondents would also be shown pictures of people wearing various religious symbols or clothing, and asked if each person portrayed on the pictures should be allowed into a different public space. Ultimately, both groups of respondents would be asked about the 2004 law, if they knew it, and was their opinion on it.

Religion of the respondent	Age scale of the respondent	Gender of the respondent
1) Agnostic	18-24	Male
2) Catholic	25-34	Male
3) Muslim	18-24	Female
4) Muslim	18-24	Male
5) Muslim	25-34	Female
6) Muslim	25-34	Female
7) Jewish	18-25	Female
8) Muslim	18-25	Male
9) Deist	18-25	Male
10) Without religion	18-25	Male
11) Atheist	25-34	Female

4.2.2. Analysis of the respondents answers to the interviews

My evaluation grid is based on my interview questions (cf. appendix). The first major question concerned the perception of the debates and the discourse surrounding religion in France. All respondents talked about the strong place religion took in the current French debate, that respondents mostly qualified as being “very important”, “very present”, “negative”, “too focused on Islam”. One non-Muslim respondent argued that when one brings up the topic of religion in France, “we immediately think about Islam”, while another respondent, Muslim, brings up the “historical discomfort [malaise] France has with religion”; another non-Muslim respondent argued that “yes, when he hear about religion in the news, it’s often to discuss of Islam or terrorism or both.”

When it comes to the question whether or not there has been a change in the discourse surrounding religion in France, and when respondents are asked to give a “before-and-after” key date, age is an interesting factor that plays into the perceptions of the debates in France. As I interviewed mostly young people (18-25 years old), a majority of the respondents said that before 2010 or before the January and November 2015, they did not feel like Islam or French Muslims were a topic as heated as before. On the other side, the older respondents gave much older dates.

One respondent gave the key date as the 9/11 attacks as the event that marked a “before-and-after” in the ways French Muslims and Islam was spoken of in the media or perceived in the public consciousness. Another one, aged 23, gave the 1980s as a key date, talking about the waves of immigration coming from Maghreb countries as a trigger for more discussion on Islam and Muslims in France and arguing that the 1980s represented the first time the headscarf made an appearance on mainland France. This difference in key dates is surely associated with age, and the fact that the younger respondents probably were too young to interest themselves to media discourse. One respondent offered 2004 and 2010 as the key date, quoting respectively the 2004 law and the 2010 “burqa ban” as moments in which attention focused more on French Muslims and Islam.

Concerning the 2004 law, there were significant differences in opinion between Muslim and non-Muslim respondents. A majority of Muslim respondents said they saw the 2004 law as “unjust”, “unfair” and called out on the “hypocrisy” of the law. One Muslim respondent argued that the law “was mediatic and legal energy that ended up being spoiled, because the public school needs many other reforms,” and said that the arguments brought up against the headscarf in school were not valid in her opinion (“ I don’t see how my headscarf pressures someone else. How is it ostentatious?”) On the other hand, a Muslim respondent argued however that if she could, she wouldn’t cancel the 2004 law because it was “already in public consciousness” and because “it’s not aiming at anyone specifically” even though she felt the law was targeting differences and the right of young Muslim girls to live the way they wanted. The Jewish respondent mentioned that the “2004 law was not necessary unjust,” but that by prohibiting a certain expression, it was going against her concept of laïcité as a laïcité that “allowed” instead of “prohibiting”. One non-Muslim, deistic respondent argued that the 2004 law, although he was not against it, felt it was badly “applied”. He retold a time in December 2016 when he was wearing in class a sticker with the name of “Coexister”, a French youth general interest association that advocates interreligious social cohesion – in which the “x” is a star of David, and the “t” a Christian cross. His professor asked him to remove it, on the pretext that these composed visible, ostentatious religious signs, and he disagreed with her, even if he ended up removing it. Another respondent, agnostic, answered that he was neutral to the law, as it stigmatized all religious signs and symbols. He called it “a républicanist law that aimed to integrate and assimilate”; yet thought it was not a necessary

law. Another non-Muslim respondent also argued that he would abrogate the law if he could because there was a gap between “its wording” and “its application”.

On the topic of *laïcité*, many respondents argued that it was in fact an important pillar of the Republic, but all agreed to say it was badly applied or “instrumentalized” against Islam. Interestingly, even if most respondents claimed that *laïcité* was “badly applied” or “manipulée” [manipulated], when asked the following question “If you could, would you change or repeal the 2004 law prohibiting the wearing of religious symbols or clothing in public schools?”, most of the respondents also responded that they would not. They have given different reasons. One respondent argued that they would not abrogate the law because the law only applied to school pupils, “minors who are not always fully conscious of their religious choices”. Three respondents argued that they wouldn’t repeal nor change it as the law “had already been accepted” by the majority of the French public. Other respondents also argued that they would not change or repeal it because the law was not specifically targeting Muslims in its redaction, nonetheless agreeing that a lot of the media attention was brought specifically on the Islamic veil.

On the topic of discrimination encountered by Muslims, the female respondents in my survey talked about their experiences with discrimination, while the few Muslim men I interviewed did encounter more ignorance than discrimination from their peers. Among the Muslim women I interviewed, those who wear the headscarf pointed out that most discrimination they found would be based on their headscarf (insults, people telling them to remove it in the streets or in other public spaces) One respondent, a 30-year old French Muslim woman seeking employment, mentioned an incident in which the Islamic headscarf was refused in a public space other than a public school, in name of “the *laïcité* of the space” [“*espace laïque*”]. She mentions a job interview in which the hiring manager required her to remove the headscarf if she wanted to get the job, affirming that “their company was a laic space” and that her headscarf was not conforming to the norms of a “laic company”. Another Muslim female respondent, who also wears the veil, talked about her experience of being annoyed by a man in a subway who told her that “her headscarf didn’t belong in a laic country”. She also mentioned, being an anthropology student, a time in 2014 where she was told her headscarf was “breaking the law” by one of the students after a class on islamophobia. All women wearing the scarf I have talked with discussed about their fears of not finding a job in France. A respondent mentioned how the “job market is inaccessible to people who “wear their religion”” Another said she had been employed by a company who would hire only women

wearing the veil as call center employees. Two days after the July 26th, 2016 murder of a priest in a church in St-Etienne-du-Rouvray, in Northern France, by two men who claimed to be acting for the so-called Islamic State, the manager of the company made a remark to the veiled employees about “how they should be happy to be there”.

When I asked the oldest of the Muslim veiled women I interviewed if she noticed a difference in her daily life and personal experiences before and after the law, she said that she didn't as she did not wear the headscarf until university. Yet, she told me the story of a classmate in high school, called S., who wore the veil and who in 2003, was asked by a professor if she would be able to “adapt herself to the new laws and to the other students” during a conversation about laïcité and remove her headscarf. The other pupils replied when the professor mentioned that S.'s headscarf was proselytism, saying that they “didn't have an issue with S.'s headscarf and had their own critical mind.” The respondent also mentions that in her school complex of 2000 students, less than 10 pupils were wearing the headscarf.

The Muslim men I interviewed said they haven't faced discrimination in the job market or haven't been harassed in public spaces like the subway or the streets. One of the respondents argued that it could be because his face “makes him look like he isn't from Maghreb [tête non maghrébine]”, as he is French of Turkish origin. However, he mentioned a few times at university where students asked him questions on Islam: for instance, a student in October 2016 told him she thought “in Islam, women were treated like animals”, and another student asking him “if he knew about radical Muslims who pretend to be integrated in Western societies” Respondents of other religions (Catholicism, Judaism) mentioned that they didn't feel like they had been discriminated against or been harassed because of their religion.

4.2.3. Conclusions on the qualitative interviews

Because of the small number of interviewees, I do not aim to give conclusions that can be applicable to the categories of age, gender or religion they belong to. In fact, through my interviews, I noticed that most, if not all, interviewees had a very similar idea of what laïcité should be, and that it was not being applied correctly in conformity to the “1905 spirit”, and some even argued that it was being instrumentalized against Islam. As a fact, I recognize there is great improvement to be made in terms of number and the composition diversity of my interview sample. However, there are nonetheless interesting points to be taken from these interviews.

Most Muslim respondents do disagree with the 2004 law that they deem unfair, as they see it as fitting in a larger scope of a “badly applied” *laïcité*, or a *laïcité* “that betrays the spirit of the law of 1905”, as well as fitting in a mediatic and political climate that they see as hostile against Muslims. The non-Muslim respondents I have interviewed all have a similar concept of what *laïcité* should be versus what is now, and mostly talk about a current “bad interpretation of *laïcité*” that is brought by certain quoted politicians. Three respondents mentioned Manuel Valls, former Prime Minister, who declared to be in favor of a prohibition of the hijab in universities, as an example of “bad interpretation” of *laïcité*. Two other respondents mentioned Marine Le Pen, leader of the far-right party Front National.

These interviews did help confirm the link between an “application” of the law deemed unfair and a feeling of being discriminated against. In fact, confronted to new forms of *laïcité* (“laic company”, people arguing whether or not the streets or the subway are public spaces where headscarves shouldn’t be used, etc.) that found themselves emboldened, the Muslim respondents on my survey felt discriminated against, just like the cases I quoted in part III mentioned by *Le Point*, where the concept of *laïcité* is used as an obstacle “anti-headscarf” and used as a discriminatory argument against women wearing the headscarf.

4.3. Analyzing the results of the online survey

4.3.1. Introduction and Methodology

I have carried out an online survey composed in total of 20 questions, and collected in total 59 responses, all from French speakers and living in France. They were all introduced with similar questions on their religious beliefs, as well as their parents’, followed by question on whether or not they possessed the French nationality. Secondly, the survey contained questions with the goal of answering three main questions that I deem relevant to this analysis and that will form the structure of my evaluation grid.

First, what understanding do French citizens have of the 2004 law? As of now, the law has been in application for more than ten years. Given the controversy it gave birth to before and after its official proclamation, it would be possible to assume that many would know, even vaguely, what the law consists of. The wording of the law, as well as exposure to it through diverse media might be factors that affect the understanding of the law. However, my goal is to observe if there are variations in what the law allows and what respondents grasp of it. I wrote two stories, in which

a public school teacher visibly discriminates against Muslim students. In the first one, a Muslim female student wearing the headscarf is told by her professor telling her to remove it, while another Christian student is wearing a large cross pendant and isn't told to remove it. In the second story, a Christian student receives an excuse for not attending class on the day of Easter, when a Muslim student is not excused by his professors for missing class on the day of Aid-al-Adha. I then asked the respondents which situations they found unfair or unjust, and why. As such, understanding what is the element they considered unjust in one or both or neither of the stories would be a hint of their understanding of the law. I also aim to measure citizen's understanding of the 2004 law later in my qualitative interviews in the following sub-chapter.

Second, what do ordinary French citizens consider to be ostentatious or conspicuous? The 2004 law explicitly reads that what is forbidden is the “wearing of symbols or clothing by which students conspicuously indicate their religious belief is forbidden” (Legifrance 2004) the The survey contained four questions trying to understand what do people consider ostentatious, and asking them why. Two questions showed a set of 16 pictures, including religious symbols (crucifix pendant) and clothing (a man wearing a Sikh turban, a woman wearing a Muslim hijab, another woman wearing a Muslim niqab, covering the whole body except the eyes), everyday non-religious clothing (a picture of a man wearing a shirt and jeans, a woman standing on a beach wearing a bikini), clothing associated with a specific religion but not technically religious (a woman running on a beach wearing a burkini), non-religious clothing that is ostentatious outside of an everyday setting (a woman wearing a bright white wig with bright makeup, a man wearing a kilt in a street), and ambiguous clothing (a picture of a woman wearing a scarf covering her hair and the back of her head in a similar fashion to a hijab, a man wearing a t-shirt marked with the word “COEXIST” made of various religious symbols). I then asked the subjects of the survey to select any picture they considered to be conspicuous, then to justify their choice with some simple sentences. After that, I asked the subjects to select (from the same initial group of pictures) which ones represented people they think were wearing clothing or symbols that should be forbidden in public spaces, and to justify their choices as well. These questions would allow me to have a small grasp of the possible bias – or lack thereof – of French citizens concerning what is ostentatious in their opinion, and hear from them what constitutes conspicuity in public spaces.

Third, what is *laïcité* according to them? What is their vision of *laïcité*, and what place should be accorded to it? The third part of the survey consisted of 10 statements by various French

politicians commenting on several cases related to religion and the public sphere, talking about their vision of laïcité, or talking about their position on the Islamic headscarf. I asked the participants whether they “strongly disagreed”, “disagreed”, were “neutral”, “agreed” or “strongly agreed” with the statements proposed. The quotes were not referenced, allowing for impartiality. I wanted to compare with their answers to the picture-related questions, and also observe if there is a specific version of laïcité that aligns with finding certain religious symbol or clothing ostentatious or not.

4.3.2. Demographic data of the respondents

First, I will describe the demographic data I have collected on the respondents of the online survey, concerning their gender, age, religion/beliefs and nationality.

An overwhelming majority (76.27%, 45 respondents) of the respondents are male, with 23.73% (14) of female respondents. Age-wise, 32.20% (19) respondents were aged 18-24 years old, with also 19 respondents aged between 30-44 years old. 20.34% (12) respondents were aged between 45-65 years old, and only 9 (15.52%) respondents were aged between 25-29 years.

Concerning religion, a majority (35.59%, 21 respondents) of the respondents define themselves as Christian, while 25.42% (15) of the respondents defining themselves as atheists, and 16.95% (10) selecting the “Without any religion or belief”. There can be a parallel to be drawn with recent French religious demographics that also put Christianity as the major religion of the country, followed by absence of religion and atheism. Only 2 respondents defined themselves as Muslim (3.39%), while only 1 (1.69%) respondent defined himself as Jewish.

Regarding nationality, the overwhelming majority of the respondents are French-born (93.22%, 55 respondents), with only 2 respondents of foreign nationality. and 2 respondents that obtained the French nationality through the naturalization process.

4.3.3 Analyzing answers to the “situations” question

Respondents were asked to answer the following question:

“Situation 1: In a French public school at 8am, a mathematics class begins. A Muslim girl wearing a hijab and a Christian girl wearing a necklace with a large wooden cross pendant sit side by side. The teacher asks the Muslim girl to take her veil out of the classroom, telling her that the law requires it, and says nothing to the Christian girl wearing a wooden cross necklace around her neck.

Situation 2: In a French public school, on 7 January, a pupil of the Orthodox Christian faith excused his absence the previous day because of the feast of the Epiphany on 6 January. His apology is accepted by his teachers. On September 13, in the same school, a student of Muslim faith excused his absence the day before because of the feast of Aid-al-Adha. His apology is not accepted by his teachers, and it will be marked on his bulletin.

Question: With regard to the two situations presented above: do you consider them just or unjust? If so, one more than the other? Why? Which? If not, why? Thank you for your reply and comment below. Short sentences are sufficient.”

Eliminating unreadable answers, I collected 55 responses in total for this question. A large majority of respondents (55 respondents) have answered that both situations were unjust. Most respondents who affirmed that both situations were unjust argued that there should be no inequality of treatment between the two students in each situation. In fact, two (2) respondents argued that “public schools are mostly “laic” and unjust treatment should not occur. One respondent affirmed that “laïcité does not make a hierarchy out of religions”, another respondent wrote that “These two situations are unjust because there isn’t the same tolerance towards religions. [...] In a laic country, the law must be equal for all.” It seems that most respondents understand that the 2004 law is prohibiting against all religious symbols. Some respondents raised important questions concerning what makes a symbol “ostentatious”, “visible” or not: a respondent wrote that a large cross could be considered not “ostentatious” if it can be dissimulated behind a shirt, while on the other hand, another respondent called the cross to be an “ostentatious sign” of Christian faith, if the headscarf was also considered to be one. Two respondents wrote their disagreement towards the conditions of the law: one explained that “every student should have the right to practice their religion without risking being punished, as long as their practice doesn’t infringe on the other students’ rights,” while another wrote that he would advocate for authorizing a hijab or a cross in “public laic spaces [...] as long as it wouldn’t prevent from identifying a person.” One respondent argued that “In both cases, the teachers are hierarchizing religions and are accepting from Christianity what they don’t accept from Islam,” while another expressed himself on islamophobia in schools: “The situations are unjust because they show a difference of consideration between religions showing discrimination against Islam. [...] The first situation is more probable in real life than the second.”

Four (4) respondents answered that the situations were unjust, but argued at the same time other points. One respondent argued that the “second situation was even more unjust than the first,

because [...] the cross can be easily hidden under clothes unlike a hijab.” Another wrote a similar argument: “The first situation seems unjust to me, if the cross is really “large” and entirely visible. However, if the student can hide it or justify a more sentimental value of the necklace, that could be excusable.”

Two (2) respondents argued that the first situation was fair but not the second. One respondent wrote that a “cross pendant or a David star necklace are discreet, and they don’t impeach a person to be. A hijab does. If the Christian girl had worn an unspecified headwear, they would have asked to remove it anyways. The first situation is fair, according to me.” Another respondent affirmed that the “S1 was fair, one must remove their headwear in class,” leaving a doubt on whether his argument was on a religious basis or a courtesy basis (“all people should remove their headwear, whether it is religious or not”) One respondent commented that he felt that the first situation was unfairer than the the second because he lived in a region where the Concordat was still in place (Alsace-Moselle) thus making all Christian holidays public holidays.

On the other hand, two respondents did not consider the situations presented in the question to be unfair at all. One replied that “France is a Christian country [...] One must adapt to the way of the country in which they live. If someone goes to a school in North Africa and skip class because of a Christian celebration, will the excuse be accepted? Will that person be allowed to wear a cross in class?” while the other respondent wrote “I think both situations are just. France has a history marked by Catholicism, which is part of our culture, unlike Islam. Some behaviors in relation to Catholicism can be tolerated,” an argument that replaces France as a Catholic country and allows certain “behaviors” if they are considered “Catholic” but not if they belong to another religion. It is quite interesting to observe that the respondent who wrote that “France is a Christian country” answered he identified as an atheistic in the previous survey question.

As such, we can observe that a strong majority of the respondents regarded the two situations presented as unjust, claiming that there should be no preferential treatment for a religion, and that both students should be treated equally in public schools, since, quoting a respondent, “public schools are laic.” Most respondents then understand the principles behind laïcité and the basis of equality invoked by the language used in the 2004 law: that all religions, all symbols, accessories or pieces of clothing are concerned by the prohibition. A minority of respondents argued that the first one was fair, due to the fact that an hijab is more visible, more ostentatious then, than a cross necklace regardless of size or that students shouldn’t wear clothing covering

their head in the classroom. An even smaller portion of the respondents answered that both situations were just, justifying discrimination against the Muslim students by stating France was a Catholic country or a country of Catholic tradition that should be more accepting of Christian religious expressions than it is of Muslim – explicitly expressing an opinion against the principles of the 1905 law.

4.3.4 Analyzing answers to the “what is ostentatious?/what would you forbid?” question

The second part of the overall survey (excluding demographic questions) focuses on the second question I aim to understand – what do French citizens consider ostentatious or not? The respondents were shown a panel of 15 pictures. In the first question of this section, they had to select all the images they considered ostentatious, and justify their choices. (The images used for this section can be found in the appendix at the end, which contains the numbers of the images I will use to make reference to.) 53 respondents in total answered this question.

Here is a table summarizing the results:

<u>Image #</u>	<u>Number of times selected</u>
<i>Image A</i>	35
<i>Image B</i>	12
<i>Image C</i>	1
<i>Image D</i>	8
<i>Image E</i>	9
<i>Image F</i>	8
<i>Image G</i>	17
<i>Image H</i>	4
<i>Image I</i>	23
<i>Image J</i>	3
<i>Image K</i>	23
<i>Image L</i>	18
<i>Image M</i>	4
<i>Image N</i>	3
<i>Image O</i>	2
<i>I don't think any of these pictures represents anything ostentatious</i>	13

We can observe that in order of the most selected, the first most selected image was *Image I* (35 times) representing a woman draped in what seems to be a black burqa, veiling her face, hair and shoulders and leaving her eyes visible. After it, with 23 times, comes *Image 9*, representing a Christian nun in her traditional outfit – ex aequo with *Image 11* representing a woman in burkini walking on a beach. The images representing a woman in a hijab (*Image 4*) and a Sikh man in a turban (*Image 8*) were respectively selected 18 and 17 times.

When looking at the justifications respondents gave for what they consider to be ostentatious, just as for the previous section, I distinguished several types of answers. Eliminating “filler” answers (some respondents would just type unintelligible characters just to skip to the next question), I collected 42 justifications. The majority of respondents (15 respondents) deemed what is ostentatious is what notes clear belonging to a specific religion: “The signs I think are ostentatious are the signs linked to a religion, whether it is Christianity, Judaism, Sikhism, Islam,

etc.”, “I’ve selected the clothes that I think are religious or demonstrate affiliation to a religion,” “When a symbol or a piece of clothing demonstrates a religious belief, it appears as ostentatious.”

Some of the respondents (11 respondents) argued that they didn’t see anything ostentatious on the picture represented because they deemed that everybody should be able to wear what they want: “A public space is for everyone, and for all religious affiliations. Each person should be able to wear what they want” or “No piece of clothing is ostentatious or all pieces of clothing are: each clothing is the projection of one’s own culture.” – yet, some of them nuanced their answers by saying that “there is a difference between public space and a public school.”

Another group of respondents (5 respondents) argued that they selected as ostentatious the signs that apply to the definition of ostentatious they found in the dictionary. One wrote: “Simply the definition of the word ostentatious: who aims to be noticed and to display an advantage or a quality”

Some respondents also made the distinction between what they consider to be too visible, or too obviously religious. A respondent that only selected *Image A* and *Image I* argued that they were “too visible”, another respondent who also only selected these two images wrote that he selected images “representing entirely religious clothing (the nun) or clothing hiding the face” and claimed that in his definition of ostentatious, he also noticed the “desire to “convince” or to “shock” people”

One of the images on which respondents had divided opinion was the burkini. This piece of clothing, similar to a wetsuit, had been the object of mediatic and political controversy earlier during the summer period of 2016, when several cities of France had been writing orders against wearing it on the beach. (Duguet 2016) In fact, a number of respondents who had justified their choices by selecting “religious clothing or symbols” picked the burkini picture, *Image K*. However, a few respondents also emphasized on distinguishing between “a religious object that mixes a religious character and design elements coming from fashion [...] (like the burkini)” and a “an ostentatious religious piece of clothing”.

A few respondents only selected symbols/clothing explicitly associated with Islam or non-Western religions and cultures. A respondent who selected only *Image A*, *K*, *G*, *L*, *M* argued that “When a piece of clothing shows a religious affiliation, it is ostentatious” – yet left behind *Image I* who does show religious affiliation. A respondent who also only selected the same images wrote as justification that these were “Islamic symbols.” One argument, raised by a respondent who

selected the burqa as an ostentatious outfit, is that “the headscarf and the niqab [sic] deprive women of freedom and provoke the crowds”, showing bias against the headscarf (and the niqab), invoking women’s rights and “provocation”.

4.3.5 Analyzing the results of the “statements” question

In the last part of the online survey, the respondents had to read 9 statements that reflected diverse opinions on laïcité or the headscarf, and they had to indicate whether they agreed strongly (“Vraiment d’accord”), simply agreed (“D’accord”), were neutral (“Neutre”), disagreed (“Pas d’accord”) or disagree strongly (“Vraiment pas d’accord”) with the idea shared in the statement. Unlike the two previous sections, only 18 respondents answered this last section of the survey. The low number of respondents makes that this section of the survey is unlikely to be representative, but I aim to analyze the answers by looking at the respondent’s other answers in the previous sections. It will enable me, for instance, to understand what kind of signs, symbols or pieces of clothing does someone who agrees with a certain statement sees as ostentatious or is willing to prohibit in public spaces.

The statements were as the following:

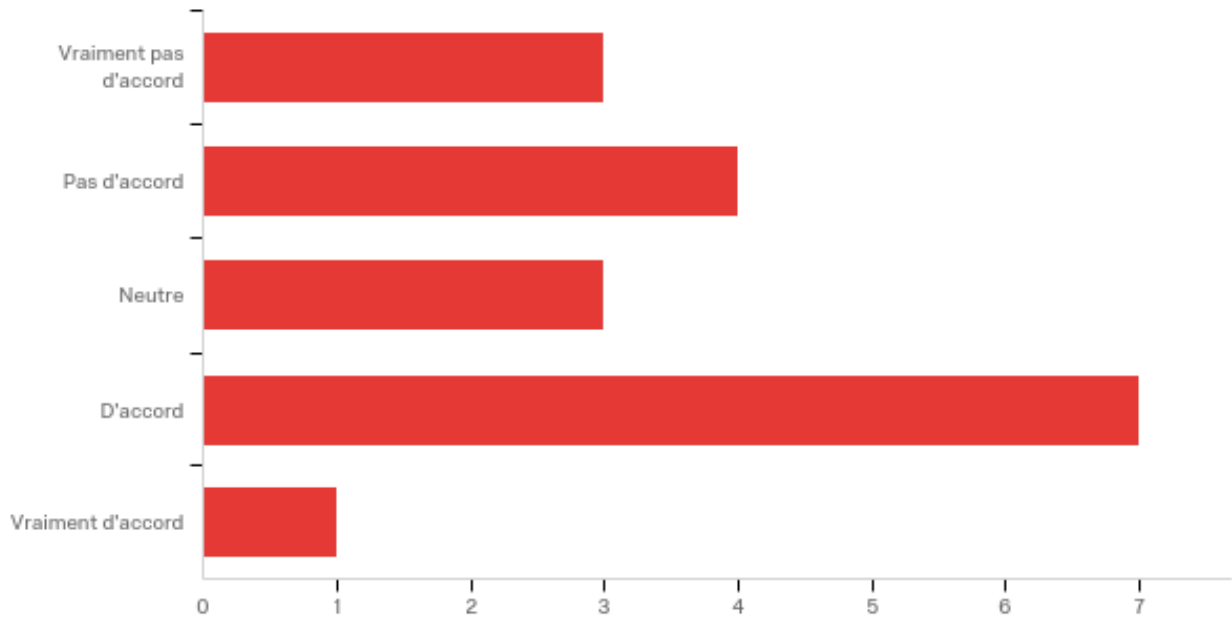
1. « Il faudrait interdire le port du voile à l'université. » (“Wearing the headscarf should be forbidden in universities.”)
2. « Ce qui me choque c’est l’usage et l’instrumentalisation de la laïcité à tous égards (...) Certains sortent des glaives pour en faire une arme contre une religion ou une autre. » (“What is shocking to me is the usage and the instrumentalization of laïcité in all respects [...] Some bring out swords to make it a weapon against a religion or another.”)
3. « À l’origine de la loi de 1905 et de la laïcité en France, il y avait notamment la volonté de protéger la liberté de culte. La laïcité ne peut pas devenir une atteinte aux libertés personnelles. » (“At the origin of the 1905 law and laïcité in France, there was in particular the desire to protect freedom of cult. Laïcité cannot become an attack on personal freedoms.”)
4. « Le respect de la Laïcité [...] c’est l’interdiction du port des signes religieux ostensibles dans tous les lieux publics. » (“Respecting laïcité means prohibiting all wearing of conspicuous religious signs in all public spaces.”)
5. « Il faut faire la distinction entre ce qu’est un voile, un fichu porté par les femmes âgées, et la revendication d’un signe politique qui vient au fond confronter la société française. »

(“There must be a distinction between a veil, a scarf worn by elderly women, and the revindication of a political sign that essentially comes to confront the French society.”)

6. « Il n'y a aucune raison pour que le religieux entre dans la sphère publique, c'est la loi. »
(“There is no reason for the religious to enter the public sphere, it's the law.”)
7. - « Oui, je plaide pour l'interdiction du burkini dans l'espace public car c'est l'emblème d'une idéologie contraire à la dignité des femmes. » (“Yes, I'm pleading for the prohibition of the burkini in public spaces because it is the emblem of an ideology opposing women's dignity.”)
8. « Le voile à l'école est un élément de prosélytisme qui doit être interdit. » (“The headscarf in school is an element of proselytism that must be forbidden.”)
9. « Le voile à l'école est une forme de liberté d'expression. » (“The headscarf in school is a form of freedom of speech.”)

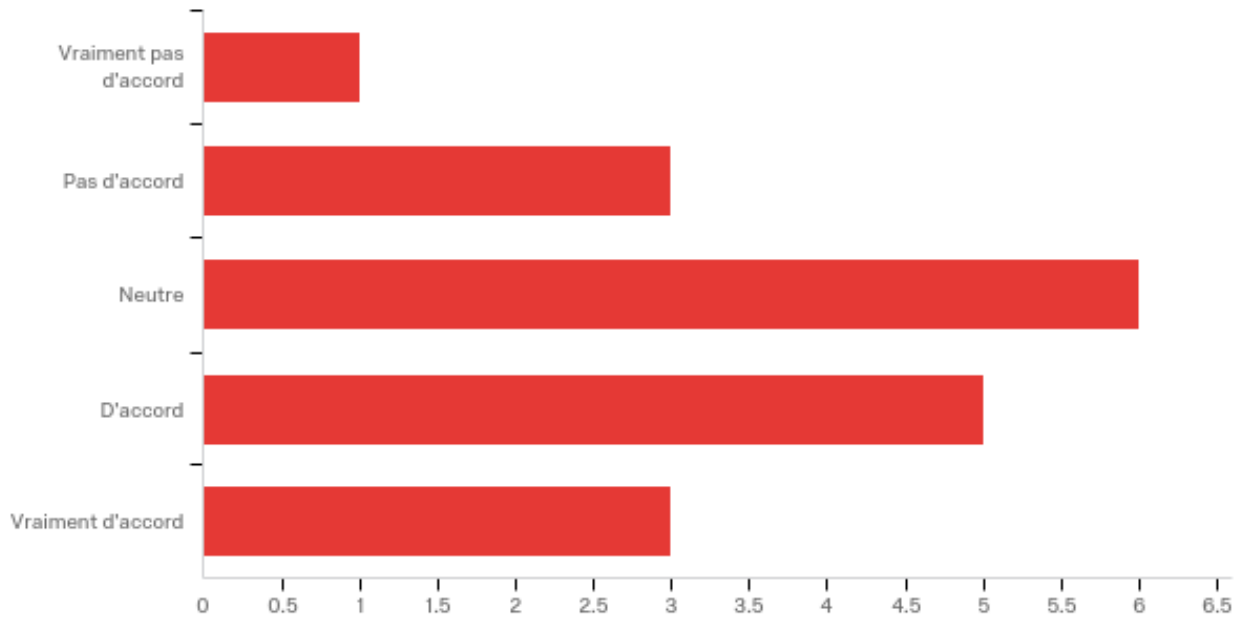
The results of the question are as follows:

1 - « Il faudrait interdire le port du voile à l'université. »



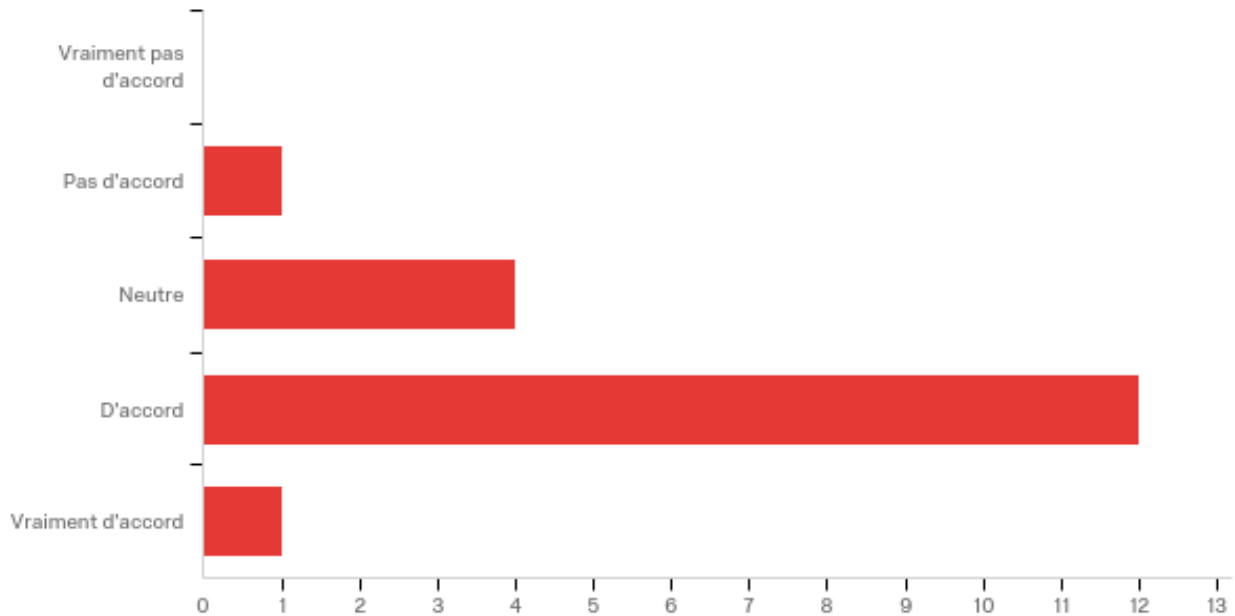
#	Answer	%	Count
1	Vraiment pas d'accord	16.67%	3
2	Pas d'accord	22.22%	4
3	Neutre	16.67%	3
4	D'accord	38.89%	7
5	Vraiment d'accord	5.56%	1
	Total	100%	18

2 - « Ce qui me choque c’est l’usage et l’instrumentalisation de la laïcité à tous égards (...) Certains sortent des glaives pour en faire une arme contre une religion ou une autre. »



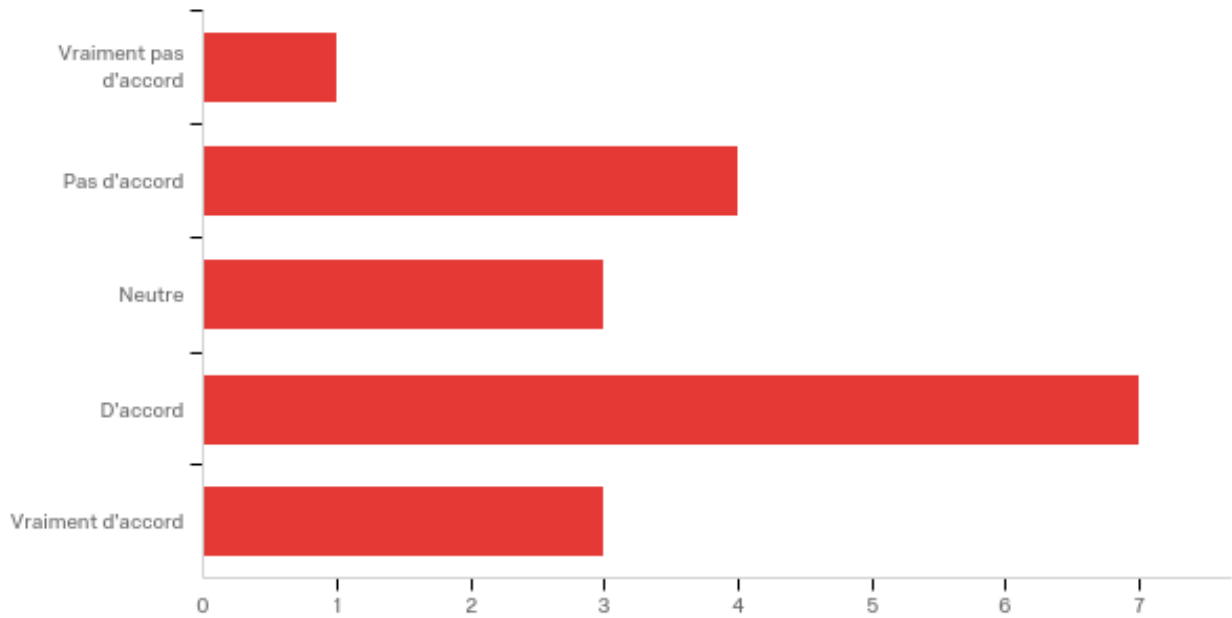
#	Answer	%	Count
1	Vraiment pas d'accord	5.56%	1
2	Pas d'accord	16.67%	3
3	Neutre	33.33%	6
4	D'accord	27.78%	5
5	Vraiment d'accord	16.67%	3
	Total	100%	18

3 - « À l'origine de la loi de 1905 et de la laïcité en France, il y avait notamment la volonté de protéger la liberté de culte. La laïcité ne peut pas devenir une atteinte aux libertés personnelles. »



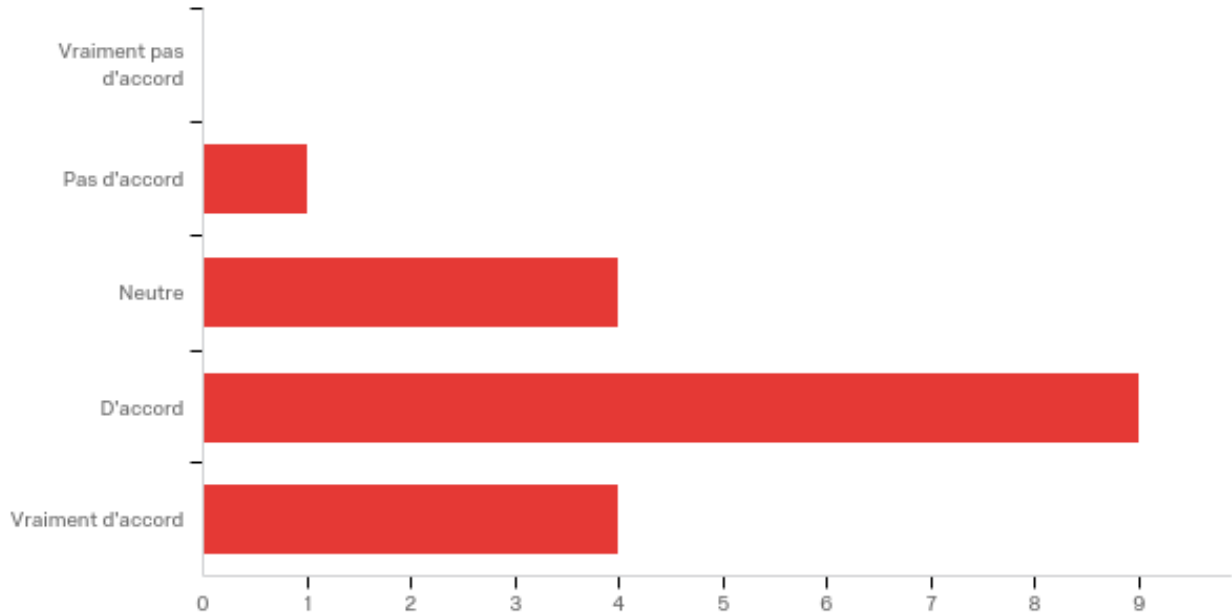
#	Answer	%	Count
1	Vraiment pas d'accord	0.00%	0
2	Pas d'accord	5.56%	1
3	Neutre	22.22%	4
4	D'accord	66.67%	12
5	Vraiment d'accord	5.56%	1
	Total	100%	18

4 - « Le respect de la Laïcité [...] c’est l’interdiction du port des signes religieux ostensibles dans tous les lieux publics. »



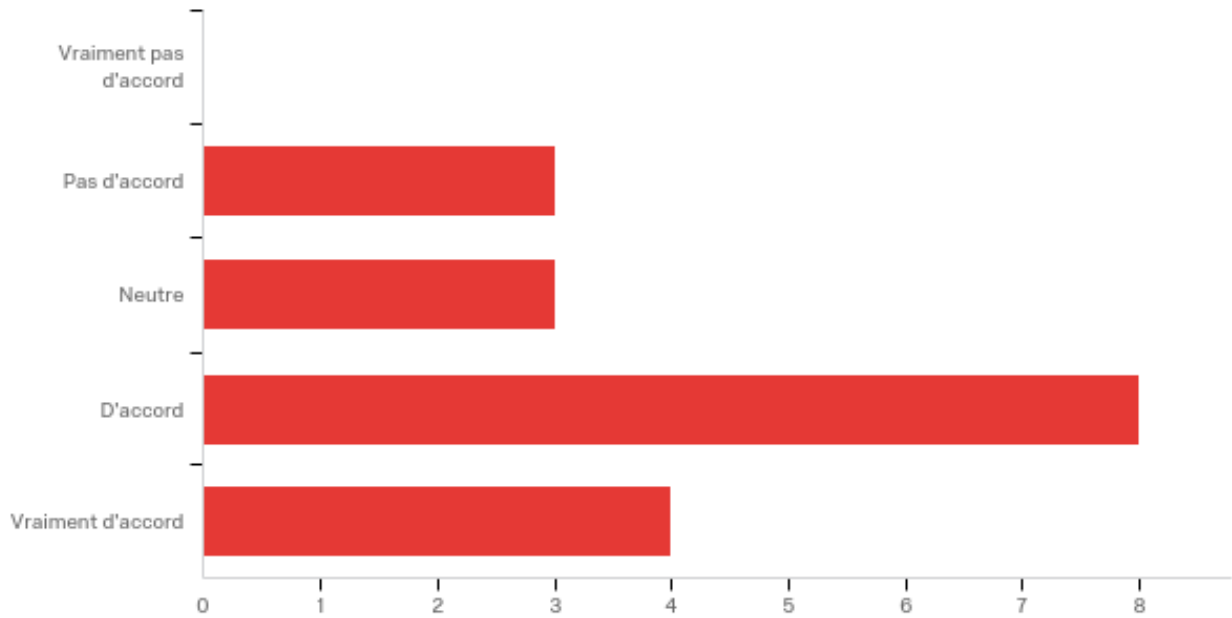
#	Answer	%	Count
1	Vraiment pas d'accord	5.56%	1
2	Pas d'accord	22.22%	4
3	Neutre	16.67%	3
4	D'accord	38.89%	7
5	Vraiment d'accord	16.67%	3
	Total	100%	18

5 - « Il faut faire la distinction entre ce qu'est un voile, un fichu porté par les femmes âgées, et la revendication d'un signe politique qui vient au fond confronter la société française. »



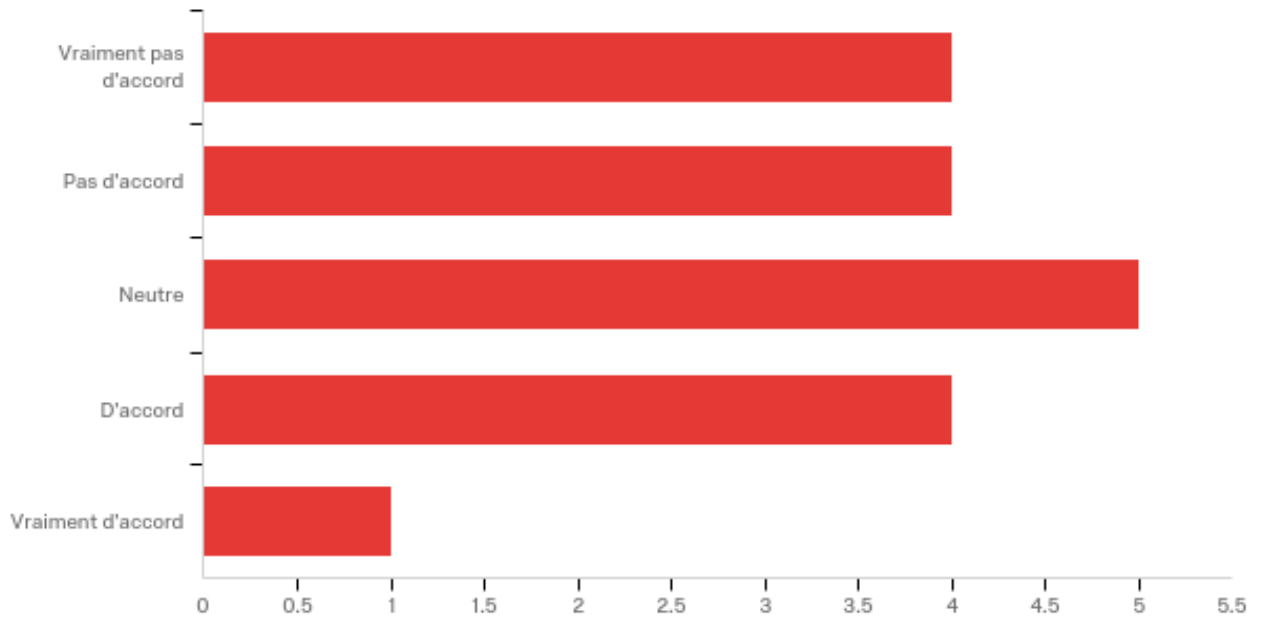
#	Answer	%	Count
1	Vraiment pas d'accord	0.00%	0
2	Pas d'accord	5.56%	1
3	Neutre	22.22%	4
4	D'accord	50.00%	9
5	Vraiment d'accord	22.22%	4
	Total	100%	18

6 - « Il n'y a aucune raison pour que le religieux entre dans la sphère publique, c'est la loi. »



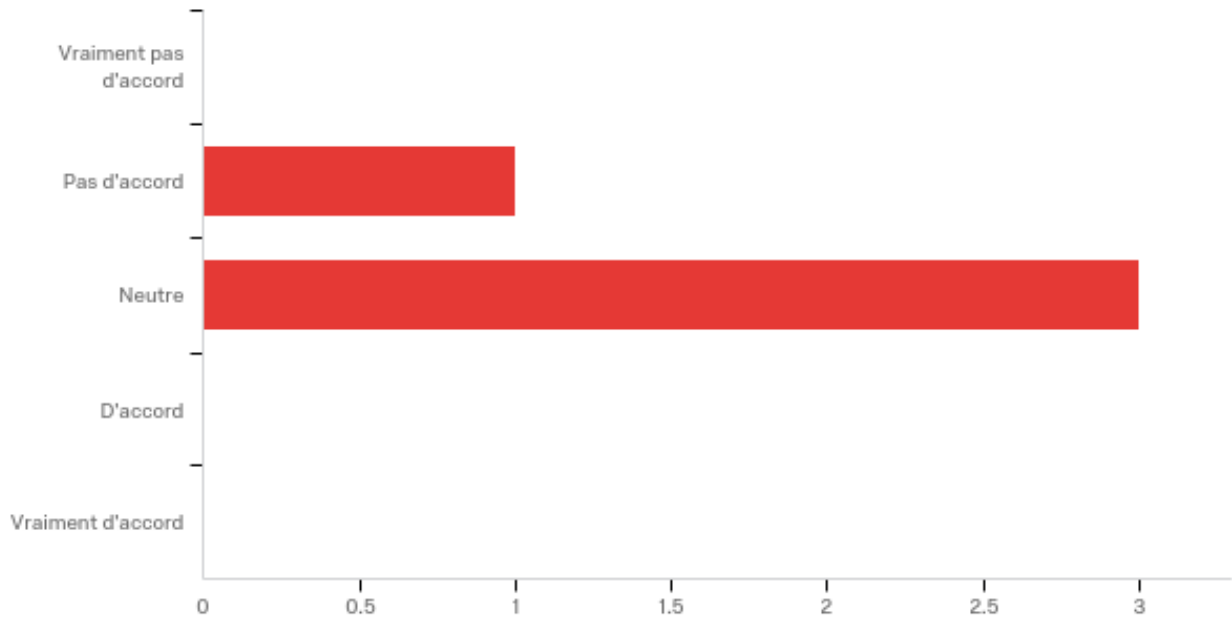
#	Answer	%	Count
1	Vraiment pas d'accord	0.00%	0
2	Pas d'accord	16.67%	3
3	Neutre	16.67%	3
4	D'accord	44.44%	8
5	Vraiment d'accord	22.22%	4
	Total	100%	18

7 - « Oui, je plaide pour l'interdiction du burkini dans l'espace public car c'est l'emblème d'une idéologie contraire à la dignité des femmes. »



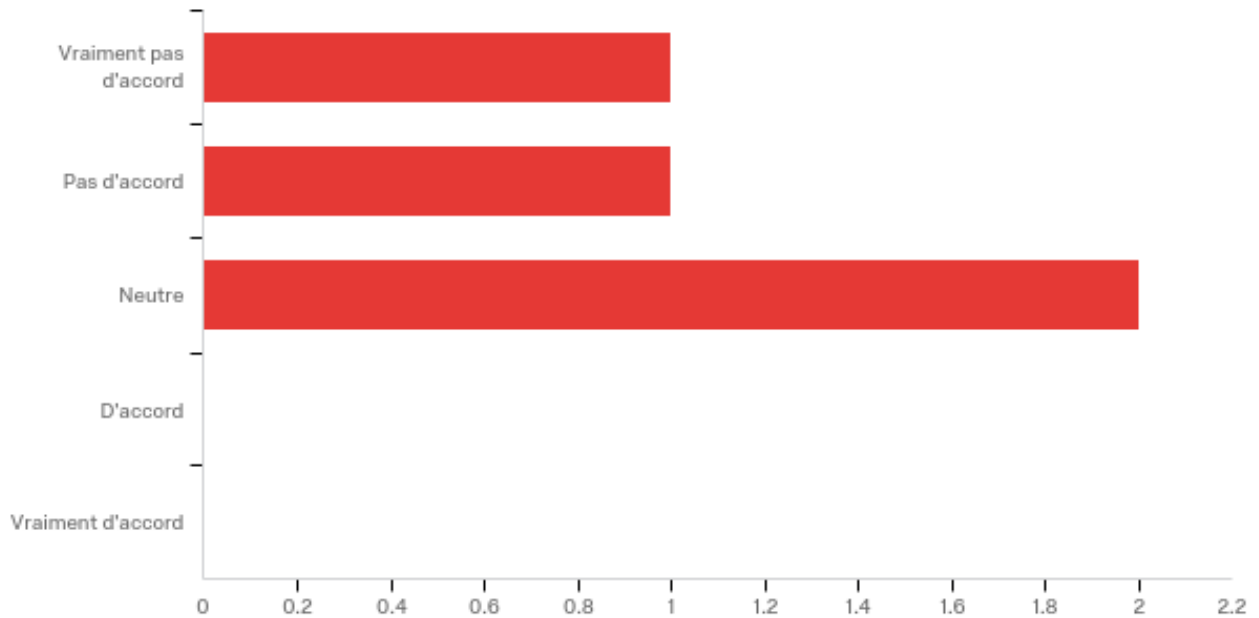
#	Answer	%	Count
1	Vraiment pas d'accord	22.22%	4
2	Pas d'accord	22.22%	4
3	Neutre	27.78%	5
4	D'accord	22.22%	4
5	Vraiment d'accord	5.56%	1
	Total	100%	18

8 - « Le voile à l'école est un élément de prosélytisme qui doit être interdit. »



#	Answer	%	Count
1	Vraiment pas d'accord	0.00%	0
2	Pas d'accord	25.00%	1
3	Neutre	75.00%	3
4	D'accord	0.00%	0
5	Vraiment d'accord	0.00%	0
	Total	100%	4

9 - «Le voile à l'école est une forme de liberté d'expression. »



#	Answer	%	Count
1	Vraiment pas d'accord	25.00%	1
2	Pas d'accord	25.00%	1
3	Neutre	50.00%	2
4	D'accord	0.00%	0
5	Vraiment d'accord	0.00%	0
	Total	100%	4

Certain points are interesting to observe. It would seem that most of the respondents who answered the first question would like the headscarf to be forbidden in universities as well (7 respondents, 38.89%), but there is also a similar proportion of respondents who disagree or disagree strongly (4 respondents disagree, 3 respondents disagree strongly) with this opinion. Yet, when asked about the statement that states that laïcité means prohibiting “conspicuous religious symbols in all public spaces”, the majority agreeing with this statement is clearer (“Vraiment d’accord” and “D’accord” combined totalize 10 respondents, while “Pas d’accord” and “Vraiment

pas d'accord" combined only get 5 respondents.) It would seem that, when combined with the answers to the "situations" question, respondents perceive laïcité as a principle that indeed applies to all religions equally, but that still nonetheless forbids religious symbols in public spaces

When the statements deal more explicitly with the issue of the headscarf (Statements 8 and 9), the majority seems to remain neutral. In fact, for statement 9, 2 respondents answered "Neutral", while 2 respondents answered "Disagree" and "Strongly disagree" respectively. However, given the fact that only 4 respondents in total answered these two last questions, I prefer not to give the results of these two statements as much interpretive value as the other statements.

I was interested in looking at the previous answers of people who answered "D'accord" to the statement that argued in favor of a prohibition of the veil in universities. Two respondents selected that he would forbid the clothing represented in *Image A* (the burqa) that he considered "to be like imposing one's religion to another", but he did not select the hijab represented in *Image L* as ostentatious or as an object that should be forbidden in public spaces. Another respondent's answer to the "what should be forbidden" question wrote "All religious signs should be forbidden in public spaces," and selected all religious signs (as well as the burkini) in the set of images. Another respondent who had responded that people should wear whatever they wanted in public spaces in the earlier set of questions also said he was supported the statement for the interdiction of the headscarf in the university. This allowed me to hypothesize there are respondents who are strongly against all forms of religious expression in all public spaces, but there are also respondents who see the burqa as well as the burkini specifically as imposing a religion on other people. They didn't selected the hijab, yet opposed its presence in universities. Why is that? Was there something unique to universities that made them different public spaces? The question was raised when Manuel Valls, former Prime Minister, reopened the debate in 2016, stating he supported the prohibition, when legally this prohibition would probably difficult to apply (Le Floc'h 2016) Was the hijab not considered as ostentatious by some of these respondents? While I am not able to make conclusions about the reasons behind their choices, I am nonetheless able to observe that the considerations of ostentatiousness vary greatly, even in a group where a majority of respondents agree on a vision of laïcité equally applied to all in schools.

4.3.6 Conclusions of the online survey

It would seem that on the topic of laïcité, and the way it is applied within public schools, most respondents have an understanding of its importance. Laïcité does not allow for discriminations, and even if a minority of respondents strongly supported a form of discrimination against Muslim students, the majority argued that both situations were unjust and should apply equally to students regardless of religion. Some respondents even implied in their responses to the “situations” questions a vague feeling of discrimination existing against French Muslims in real life: “This means to establish the idea that one religion has more value than another, on the basis of uncertain criteria [...] How can a united society [...] build itself if some of its members are considered to be second zone citizens due to their religion?”

However, an important question is raised when looking at the results of the “what is ostentatious/what should be forbidden” survey. In fact, the results reveal more diversity in what people conceive to be “ostentatious” as I had imagined. If a majority of respondents see ostentatious character in what is visibly a religious symbol or piece of clothing, there is still a great number of respondents who answered that nothing should be considered ostentatious and that people should have the right to wear what they want in the street. Of course, they could have a different opinion when it comes to “ostentatiousness” in a public school – like one respondent pointed out. Another group of respondents selected as “ostentatious” only what was considered to be a danger to safety – i.e. if it hid a person’s face, like the burqa represented in *Image A*. Even in the group of respondents who deemed religious signs to be ostentatious, there were nonetheless differences in what people deemed to be “too visible”: while some respondents deemed any object associated with a religion to be “ostentatious”, other respondents argued that “a simple cross or a veil” were “discreet signs”. One respondent argued that a nun outfit was not ostentatious, because it constituted her “work outfit, as an ecclesiastical” – while another respondent argued that a nun outfit was ostentatious because it constituted an entirely religious outfit. Just like the previous set of questions, a minority of respondents only decided to select the symbols or outfits that were exclusively “Islamic” or at least non-Western (a respondent justified his choice by writing he selected “Islamic” outfits only, yet also selected the picture representing a Sikh man, *Image G*. I can only guess that it is either ignorance, or enlarging his choice of “ostentatious” to anything non-Western.) As such, the results of this survey, even if made on a very small scale, allow me to raise important doubts on the notion of “ostentatiousness/conspicuousness.” The 2004 law prohibits

“ostentatious” religious symbols, leaving the care of deciding whether or not a specific symbol, accessory, or piece of clothing can be considered ostentatious or not to the professor or the school administrator. The law does not provide directions or measures on what is objectively conspicuous, and as such the application of the law is left to the sentiment of the individual applying it in school. The majority of the respondents acknowledge that asking a Muslim student to remove her headscarf while leaving a Christian student to wear her cross necklace is unfair – yet, the distinction of ostentatiousness remains nonetheless subjective, and while in the minority, some respondents still displayed explicitly bias against Muslim students and Muslim symbols and clothing.

Another question raised by the results of this online survey was a simple, yet crucial one: what makes an object religious? This issue was posed specifically with the burkini, on which some respondents argued that it was a “mixing religion and elements of fashion”, while some selected *Image K* in their answer to the “what is ostentatious/what should be forbidden” and argued it was part of religious symbols that were forcing religion on others. On the opposite, some didn’t select *Image K* when selecting what they thought to be religious. The question remains: is the burkini religious because the person wearing it is Muslim? If yes, does that mean the ostentatious nature of an object reside in the intentions of the person wearing it? An interesting case, in 2015, opposing a Muslim girl and her school’s intentions, came to question this. In April 2015, a Muslim middle school student, Sarah K., was impeded to attend classes several times by the administration of the Léo Lagrange middle school in the region of Charleville-Mezieres despite her removing her hijab before entering the school – on the grounds that the long black skirt she was wearing was also part of a religious attire. The girl argued with the school’s administration, arguing that her long skirt was just “simple, not ostentatious. There’s no religious sign at all.” (Chadenat 2015) This case attracted mediatic attention and several citizens called for a “Long Day Skirt” in protest of the young girl’s initial prohibition to attend classes wearing the skirt. Later in the year, two other similar cases arose in which Muslim schoolgirls were impeded access to the school despite the fact that they had removed their headscarf because of their long skirt. In fact, the argument on which a long black skirt can be proved to be a religious symbol if worn by a Muslim schoolgirl reinforces the idea that the law (or should I say, the professors enforcing it) end up giving religious significance to a piece of clothing that is not attached to a specific religion. If a student known to

be non-Muslim was wearing the same skirt, would the skirt be considered by the school administration as a basis for impeding a student to attend classes? I strongly think it would not.

This is where the 2004 law reveals its limitations, as it seems to have enabled biases and confusions that disproportionately affect Muslim students, and specifically young Muslim girls. This confusion is similar to the reasoning behind pointing out to the burkini in my qualitative online survey as an ostentatious symbol: the respondents who pointed at the picture of the burkini as conspicuous because of its religious nature are in fact giving a religious meaning to a piece of clothing that was not considered religious. As many argued during the burkini controversy in 2016, how is a burkini different than a typical wetsuit, except for the fact that it is worn by Muslim women? The 2004 law applies when the symbol or the sign is a religious one, therefore raising the following question: what makes a symbol or a piece of clothing religious? Is it the actual or known religion of the wearer or the intention behind wearing one? If it is the former, as it is in the Sarah K.'s case, it means the law is enabling distinctions to be made between students who wear the same piece of clothing depending on their religion, thus enabling discrimination against students who are known to be or perceived to be Muslim. On the other hand, if it is on the latter basis, how can the intention of the wearer be assumed? For instance, when we refer to the pictures used in the online survey, can we assume the intention of the blonde woman wearing a scarf around her hair, or even the intent of the young man wearing a "COEXIST" t-shirt made of different religious symbols? Are they wearing it for a religious or political or practical purpose? These are questions a law would not be able to answer. At the same time, it would also mean that the 2004 law should not be based on the religiosity of the symbols or the signs, but on the intent of the person – leading towards a more case-by-case legal jurisprudence, closer to what the State Council was doing from 1989 until 2004.

IV – CONCLUSIVE REMARKS AND POLICY RECOMMENDATIONS

Freedom of religion and separation between Church and State are essential principles in order to maintain a strong democracy, and the principle of laïcité, as it is inscribed in the Constitution, was created with that aim in mind. It remains nowadays a pillar of the French Republic; yet, it is not without its own flaws. Laïcité remains a concept that has as many definitions, meanings and interpretations as there is as many intellectuals, politicians, school teachers or citizens. It remains a principle that all French agree to say it is crucial to society, yet don't seem to agree on its meaning or its application. Is laïcité a legal reality? A philosophy? A set of rules? Olivier Roy defines laïcité as a total sum of laws in his book *Secularism Confronts Islam*, but also writes that laïcité – in its initial 1905 application and as of now – is not entirely the separation of the State and religions as “our secularized societies are haunted by the religious” (Roy 25) But El-Hagggar writes that laïcité is “a philosophical concept” (19), while Hendaz defines it as a “Kantian concept based on reason and universality” (81) The malleability and the shadow of confusion surrounding laïcité makes it a weapon that can be indeed used against a religion or another. When turning to the 1905 law and the context of its creation, Olivier Roy argues that the French society shifted from displaying Catholicism as the enemy in 1905 (“clericalism, that’s the enemy!”) (Roy 2) to now Islam being pointed as the threat to public order and the foundations of laïcité. But more importantly, the debates on the place of Islam and its visible expressions (the most discussed being the headscarf) in French society have been “involved in the reshaping of the French political and intellectual landscape.” (Roy 2) This can be observed in political discourses, especially amplified during periods preceding presidential elections, and this since 2007. “Islam” and “laïcité” are two topics often brought together in the media, and even more so during elections period. As an example, during the primaries of the Socialist Party (to which belongs the current President, Francois Hollande), laïcité was one of the major issues dividing Benoit Hamon and Manuel Valls, the two candidates for the April 2017 elections. Valls, who declared the headscarf to be a “subjugation of women”, inscribes laïcité in a “battle against communautarisms and for women’s rights” (Le Monde Jan. 2017). On the other hand, his opponent, Hamon, believes that “we should stop to make an issue out of Islam”, what *Le Monde* calls an “appeased conception of laïcité, by avoiding to pit French citizens against each other.” I would like to argue that Hamon and Valls incarnate two confronting visions of laïcité in the French political sphere. Benoit Hamon affirms wanting to stay “true” to the 1905 law, by guaranteeing “a laïcité that aimed to allow those

who believe and who don't to freely exercise it and by assuring the neutrality of the public powers and the State, no more and no less" (Le Monde 2017) On the other hand, Manuel Valls affirms to go beyond the 1905 law and aimed in his program to create a "Chart of Laïcité" and adding it to the Constitution. Another vision even, is that of Marine Le Pen, who made one of her campaign promises to add the mention "The Republic defends no community" to the Constitution, a proposition her detractors have declared to be clearly aimed against the French Muslim population.

Disagreements on what laïcité consists of still persist, and so do debates on whether to extend the 2004 law's prohibition of conspicuous religious signs to other public places. Ultimately, the answer resides in how the French society defines what constitutes "neutrality" – because this notion is essential in the definition of the 2004 law. The law puts the accent on the word "conspicuous", leaving it up to professors to decide which signs and which symbols can be considered conspicuous or ostentatious. Is ostentatious really synonym with visible? As Laborde argues in *Critical Republicanism*, the criterion of ostentation is made "against the backdrop of specific, non-neutral, cultural contexts. A Muslim hijab is 'ostentatious' in Paris in a way in which it is not in Casablanca, where, by contrast, smaller Christian crosses are likely to stand out." (63) The notions of what is "ostentatious" or "conspicuous are rooted in cultural, non-neutral and thus non-laic contexts – and a law cannot be based on a simple "impression of visual aggression by the outward expression of an unfamiliar and foreign religion." (Laborde 63)

This is an argument similar to what Régis Debray, former member of the Stasi Commission makes in a letter to Jacques Chirac in 2003. He writes a short yet relevant passage concerning the politics of multiculturalism in France. In fact, Debray is strongly in favor of a law concerning religious signs in schools, yet, by intellectual honesty, devotes several chapters listing the arguments against the introduction of the new legislation. As the 2004 law is still being discussed, he discusses the argument according to which France should not ignore the cultural and historical context in which a law aiming to ban religious symbols and clothing in schools would be inscribed. Debray argues the veil was a question not solely about the place of religious expression in the French society, but also about the French society's perception of immigrant populations coming from its former, Muslim-majority colonies. He writes: "There is an obscure link between a "civilizing" universalism and a contemptuous colonialism, and the republican discourse must one day clear up their colonial inhibitions. [...] France [...] does not have the luxury of multiculturalism, more accessible to short histories and large territories, but there is

nothing but benefits for her to recognize, by symbolic positive measures, cultural rights neglected until now: the ability to choose one's holidays according to their religious traditions, facilitation of downtown construction and financing permits for mosques" (20) Despite being an eloquent advocate for the 2004 law, he reminds that it inscribes itself in a context in which France has not entirely gotten rid of its historical bias, yet it remains in denial about it. Gaspard and Khosrokhavar make a similar observation when pointing out that "despite constant immigration and the progressive installation of an important fraction of migrants, it is striking to see that France has denied, since the 19th century, its aspect as a country of population-swelling immigration (167) I am not discussing in this paper the benefits or the disadvantages of multiculturalism or of any previous immigration policies: this question deserves its own entire thesis, not to mention that this question has been addressed academically by political philosophers (Taylor, Kymlicka), political scientists (Song, Modood), and historians (Mouhoud). However, I am focusing on the ways in which a law dealing with universalistic language and a seemingly universalistic goal (the prohibition of all religious symbols in public schools) ends up having a differential impact, due notably to the fact that the law was born from discussions and issues in which only the Islamic headscarf was seen as the "issue" to be solved. If it is not my place to discuss whether or not the Islamic veil – or any other religious symbol worn by students – whether it represents a danger to the values of the Republican school, or whether it is a symbol of religious proselytization or of the "Islamisation" of France, this paper aimed bringing forth the contradiction between the wording of a law and its *de facto* application. Even if the law equally discriminates against all religious symbols and pieces of clothing, and even if it was not formally proven that the most affected by the law are young Muslim girls wearing the veil, the consequences and the effects of it remain an issue. In fact, the 2004s law stemmed from a mostly negative vision of the Islamic headscarf, as several politicians, intellectuals and medias associated it with Islamic patriarchy, radical Islamist groups, and an immigrant "threat". Through the proceedings of the Stasi commission in 2003, the focus of the law remained the Islamic headscarf; yet only two Muslim girls were brought to the discussion table and their experiences and opinions were not heard by the lawmakers in charge of a law that was, after all, concerned primarily with their religious clothing. This fact brings up a crucial question concerning the disconnect between citizens and lawmakers, and the actual goal of laws in a democracy. More importantly, the gap between the universal language used in the 2004 law and its initial intention of providing a solution to the headscarf controversies is worth

questioning. If it is possible to imagine that French legislators did not want to write a law forbidding only the Islamic headscarf to avoid public accusations of discriminative policy and sanctions emanating from the European Court of Human Rights, the negative effects of the law have been mainly falling on Muslim schoolgirls, and to an extent on the French Muslim community in its entirety who have been feeling the impact of negative stereotypes, ideas and perceptions of Islam being propagated in the French society.

The little scale of my qualitative surveys and interviews does not allow me to come up with strong and decisive evidence that Muslim populations are more disproportionately affected than other religious groups by the law. However, combined with the literature review from Chapters I, II and somewhat in III, I am able to draw hints, pieces of evidence that show the ways in which the law is inscribed in a broader discourse affecting and targeted in fact against the headscarf, affecting the Muslim community as a whole.

Going back to *Model 1*, have proven all the drawn links to be true? In Chapter II, I have established the link and the ways in which the political and mediatic debates centered on Islam and on girls wearing the headscarf influenced the steps that led to the 2004 law – the 1989 and 1994 directives, and even the Stasi commission’s focus. In Chapter II and III, I have shown how these same political and mediatic debates focusing on Islam and the headscarf have given way to islamophobic attitudes affecting mostly Muslim women. The link between “Islamophobic Opinions and Attitudes” and “Application of the Law” is more complicated: as I have not been able to produce data on this point (i.e. interviewing teachers or school administrators), I nonetheless questioned the idea of “ostentatiousness” along with Laborde’s points and argued that the criterion of “ostentatious” was surely biased against Muslim symbols such as the headscarf. The online surveys in III also allowed me to question the notion of “ostentatiousness” and doubt the objectivity of this criterion, as well as what makes an object a religious object or not. It doesn’t prove the existence of this link, but brings a doubt on the ways biases and subjective judgment might influence the application of the law when deciding on what is “ostentatious”. Finally, the link between the application of the law and “discrimination sentiment” can be drawn from the stories told in Chapter II, as well as some of the interviews I have done in Chapter III.

Of course, I do realize that the small scale of my interviews and online survey is quite small, thus causality cannot be proven. However, I hope the elements I have brought up and put together

in this research will allow for a better contextual understanding of the 2004 law and the principle of laïcité and its relation to French Muslims.

5.1. Policy Recommendations

As this paper reaches its end, I want to finish with some important observations and recommendations concerning policy-making and the ways in which European/Western societies deal with multiculturalism and religious diversity within their territories. The history France has entertained with Islam is complex, and finds its roots in a long history of colonial and post-colonial relationships with the first wave of immigrants coming from former colonies composed Muslim-majority populations. In her article “Islamophobie : la fabrique d’un nouveau concept. État des lieux de la recherche,” the French sociologist Houda Asal writes that there is a “specificity to the French context” and that we should “take different dimensions simultaneously in order to analyze islamophobia in France,” because France’s relation to Islam and its Muslim population is linked to its colonial and migration history; because a large part of the Muslim populations come from this migration history and from working classes, and also because Muslim women have been at the center of the debate and the biggest victims of islamophobia. (Asal 11)

I would first like to address the law at the center of this thesis: the 2004 law. Given the context of its establishment, would I be able to say it is a “bad” law? Should it be abrogated? Similarly to the people I have interviewed, I am able to see the reasons behind the law, as well as its actual effects. The major rationale behind the law was that the headscarf was an object of “submission” or “subjugation” for several young girls, and that the law would allow to liberate them (Stasi), and that ostentatious religious signs or symbols are a form of proselytism. The first claim would need to be discussed in a sociology or even a psychology thesis, and measuring whether or not even the women who made the conscious choice to wear the headscarf despite opposite opinions from their families are playing into subconscious submission to “Islamic patriarchy” is beyond my means. I would disagree with the second claim however: proselytism results from a behavior in my opinion, not a symbol or an appearance. I have previously discussed the ambiguity in what makes a symbol or a piece of clothing “religious” as well. The 2004 law, even if I would recommend its abrogation for these personal reasons, would not be possible to be abrogated. First, it is a law a great number of French citizens approve of – 85% of

them in 2015 approve of the law (Portier 270) – and it is a law that, as the results of my online survey show, respondents understand and approve of, even if they oppose blatant discrimination as pictured in the “situations” questions. In fact, there is a difference to be made between “blatant” discrimination as it is pictured when a professor refuses to apply the same law equally to two students of different religions – and “situational” unfairness, more insidious yet still as impactful when a law is created to answer to the “issue of the headscarf,” yet decides to forbid all religious signs and symbols in school – affecting the public perception of Islam, which was already negatively viewed as the “religion of the other/the immigrant” to a religion “of women’s subjugation and terrorism”.

As such, even if I am opposed to the law, I would not recommend abrogating it in the current French socio-political context. However, it is essential that French political classes, as well as the French public, gain awareness of this form of unfairness – but looking at recent news, it seems that history might be repeating itself. A late ruling of the European Court of Justice declared that headscarves could be banned in workplaces, as long the prohibition arose “from an internal rule of a private undertaking prohibiting the visible wearing of any political, philosophical or religious sign in the workplace” (Court of Justice of the European Union 2017 4), specifying however that in the absence of such an internal rule, prohibiting the Islamic headscarf “cannot be considered an occupational requirement that could rule out discrimination. (1) This ruling ensued the discussion of two cases, each opposing a Muslim woman to their previous employers – one opposing a Belgian Muslim woman, Samira Achbita and her receptionist company; the other opposing Asma Bougnaoui, a French Muslim woman and the company in which she worked as a design engineer. Similar to the discussions preceding the establishment of the 2004 law, it seems that the attention comes from cases in which the Islamic headscarf was at the center of the issue. This recent legal decision allows me to draw on two points on which I want to emit policy recommendations, not solely for France, but also for Europe and other countries of “Western tradition” dealing with Muslim populations.

My first policy recommendation concerns the mediatic treatment of French and European Muslim populations in these countries. The judicial decision of European Court is remindful of the first steps that led to the creation of the 2004 law. Similarly to the events of 1989 and 1994, it is a single object (the headscarf) that has become the root of a possible measure that would use “universalistic” language (in the case of the European Court decision, the right to ban all

religious, political and philosophical signs and symbols) Nonetheless, the decision of the court was titled in the media as an action against the headscarf. *Le Monde* titled its report on the decision “Europe: companies can forbid the headscarf under conditions” and featured a picture of a woman in a headscarf, turning away from the camera. A *Huffington Post France* article title does not make a direct reference to the veil, yet the cover picture of the article shows another woman in an headscarf. Even if the European decision seems at this stage, far from becoming a national rule or law, I believe it is important to be careful when looking at the mediatic discourse surrounding the headscarf and Muslim populations in Europe. As seen in the 1989, 2002, 2003 and countless other cases opposing headscarf-wearing Muslim schoolgirls to school administrations, the extensive mediatic coverage was one of the factors accentuating the feeling of threat and danger, and of abnormality in the presence of the headscarves in schools. Major newspapers in France (well-known names such as *Le Point*, *L'Express*, *Le Nouvel Obs*) as well as audiovisual media played an important role in the transmission of the typical image of the headscarf-wearing Muslim schoolgirl. By aligning reports on veils in schools with Islamist danger, the risk of terrorism, the dangers of immigrations, social and economic insecurity in suburbs, media was transmitting a limited narrative surrounding young girls wearing the veil that may not be entirely representative of the variety of women and young girls deciding to wear the veil. Even more recently, in the summer-fall 2012 period, more than six covers from *L'Express*, *Le Point* or the periodical *Valeurs Actuelles* bore words like “The Occident against Islam”, “The Fear of Islam”, “Islam: Uncomfortable Truths”, “The Islamist Specter”, “Why Is Islam Scary”, “This Shameless Islam” (Diallo 2012) Read by thousands each day, covers and articles like these fuel a fear of Islam, of the headscarf, and a fear of the religious that is not always justified. The general opinion on Islam and the integration of French Muslims keeps decreasing. In fact, in 1989, 37% of French citizens considered that the cohabitation between the immigrant’s traditions and French culture was difficult. (Portier 269) In 2013, 74% of people interrogated thought that Islam is a religion “incompatible” with the values of the French society. (269) This trend is surprising when contrasted with the 71% of Muslims that accept the values of French society, including laïcité and the respect of national laws above religious laws. (El Karoui 2016) I do not advocate for hindrances to press freedom or freedom of expression. Nonetheless, it is necessary that societies remain aware of the power of media exercise on public opinion when they

dramatize and emphasize one side to an issue, or when they focus on a threat to link it to a whole community of French citizens.

Secondly, I argue that the issue at the center of these two cases is the French definition of *laïcité*, as well as the European vision of religious neutrality. In fact, let's observe the argument brought forth by the two companies concerned in the European Court of Justice ruling to prohibit the wearing of the headscarf. The company involved in the case opposing it to Samira Achbita informed her that "the wearing of the headscarf would not be tolerated because the visible wearing of political, philosophical or religious signs was contrary to the position of neutrality G4S [the company] adopted in its contracts with its customers" (Court of Justice of the European Union 2017 1), while the company opposing Asma Bougnaoui "informed her that the wearing of an Islamic headscarf might pose a problem when she was in contact with customers of the company" (3) The question at hand lies in how the headscarf is perceived by the customer of the company, and the wish of the company for "neutrality". In the case of the Belgian company G4S, it is clear that the company has a policy of neutrality for all expressions – political, philosophical and religious. One might argue that, given the nature of the Achbita's work as a receptionist, she has to offer a neutral image to customers, as she represents a company without any religious, political or philosophical affiliation. Yet, is "neutrality" really the absence of a headscarf or of a cross? Companies and public services in Anglo-Saxon countries who may have requirements of neutrality quite different from France or Belgium – in positions such as police officer or postman – allow for religious symbols like a headscarf or a Sikh turban.

If I wish to leave my personal opinion outside of this analysis and remain neutral (pun intended) on the question of which form of "religious neutrality" is better, I do remain convinced that in the case of France, a national re-questioning on the meaning of *laïcité*, what it implies, and its consequences on religious and non-religious citizens in their daily lives remains necessary. It might end on a questioning that will not lead to clear answers, but the value of that exercise remains in its practice. Depending on who is speaking as well as who you're speaking to, *laïcité* can be the legal, philosophical or socio-political concept that defines the space of religion in the public sphere or the relations it has with the State. However, in the current state of affairs, it has come to englobe issues of immigration, racism, islamophobia and challenges to multiculturalism in France – but also in other European countries. Opposing the Anglo-Saxon secularism model to the French *laïcité* model has been done many times, yet, it is time we draw from both models in order to find

a model of secularism that “embraces all religions without fear or favour” (Husain and Welby 2015) and respects the religious practice of citizens within legal boundaries without trampling on their freedoms for the sake of an impression or a bias.

It is easy to wonder how, and even if “Islam is compatible with our Western values” – a question asked to French citizens and to which 56% of them answered negatively in a 2016 poll (Paris Match 2016) – when ignoring a French Muslim population that in its majority, respects the values and the freedoms that allow them to practice their religion. It is essential that we, Western societies, as we are facing multiple self-questionings on the issues of identity, domestic safety, relationship with our history, interrogate ourselves on our historical legacies, biases, antagonisms and natural hostilities towards what is considered foreign.

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Appendixes

Appendix 1. Evaluation Grid for the Online Survey

Personal understanding of the 2004 law

- What are the situations the respondent consider unjust or not?
- What are the justifications given by the respondent for their perception of injustice or lack thereof in any, both or none of the situations?

Perception of what is conspicuous or ostentatious

- What are the pieces of clothing, accessories or symbols the respondent considers ostentatious?
- What are the justifications given by the respondent for why they consider certain symbols, accessories, pieces of clothing (or none proposed) ostentatious?
- What are the pieces of clothing, accessories or symbols the respondent would forbid in public spaces?
- What are the justifications given by the respondent for why they forbid certain symbols, accessories or pieces of clothing (or none proposed) in public spaces?
- Do the pieces of clothing, accessories or symbols that the respondent has considered to be ostentatious are also what they would forbid in public spaces?

Personal understanding of laïcité

- Do they agree or disagree with certain perceptions of laïcité?
- Do they agree or disagree with certain perceptions of the headscarf?

Crossing these three questions

- Do respondents agreeing with a certain perception of laïcité have different responses on the “situation game” than other respondents?
- Do respondents agreeing with a certain perception of laïcité also see certain symbols, pieces of clothing or accessories as ostentatious?

Appendix 2. Qualitative Interview Questions

General Demographic Questions

- A. How old are you?
- B. Where were you born?
 - a. → If born outside of France: How long have you been living in France?
- C. Where do you currently live?
- D. Do you mind me asking what is your current occupation?
- E. Concerning religion and spirituality, what would you define yourself as?
- F. How about your parents?
 - a. → If the subject is religious, go to III
 - b. → If the subject defines themselves as non-religious/agnostic/atheist/doesn't know, go to part IV

I. Questions on the 2004 Law (to religious subjects)

- A. How important is religion for you?
- B. Do you think religion is an important topic in France? For French people?
- C. Do you think this tendency has changed over the years?
- D. Do you feel comfortable exercising your religion in France? How do you feel about being religious in France?
- E. Has this changed over the years? Did you feel the same when you were younger?
- F. Have you ever felt discriminated against because of your religion?
- G. I would like to talk about discrimination in your school years, if you don't mind.
 - a. Have you ever felt discriminated against in middle school or high school because of your religion?
 - b. If you do, do you mind if we talk about these incidents?
 - i. → If yes: when would they happen most frequently?
- H. Do you know about the 2004 law?
 - a. → If yes, what is your opinion of it?
- I. Do you think enough is done by French institutions (schools, police, lawmakers...) to prevent discrimination to happen in schools? Discrimination happening elsewhere?

- a. If you don't, how do you think things should change? What should be improved?

II. Questions about the 2004 Law (to non-religious/atheistic/agnostic interviewees)

- A. What is your opinion on religion as a topic in French society today?
- B. What place do you think religion occupies in French public debates today?
- C. Was your opinion the same in the past? If not, what changed?
- D. What is your opinion of the place occupied by various religious groups in France? Do you think all religions are equally represented today?
- E. What do you think about the French political and legal system position towards religion?
- F. According to you, are there enough laws that deal with religion in France?
- G. What is your opinion on religious expression in the streets? In hospitals? In schools? In companies?
- H. Have you heard about the 2004 law on the prohibition of religious symbols in schools before? What is your opinion of it?

Appendix 3. Images for the “What is ostentatious” question of the online survey



Image A.



Image B.



Image C.



Image D.

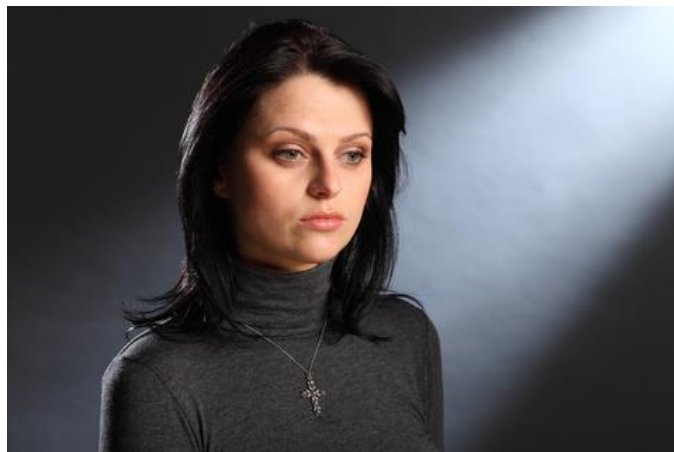


Image E.



Image F.



Image G.



Image H.



Image I.



Image J.



Image K.



Image L.



Image M.



Image N.



Image O.