

Tracing the French Statute on Religious Dress at School (Detail)

- A cultural idea of “citizenship” whereby “citizenship” is created by the state and is premised on the ideas of “universalism” and “equality”, thus excluding the notion of “groups” or “collective rights” and entailing cultural assimilation to “Frenchness” for all.

Taking the view that it is its duty to promote citizenship, namely on account of the attendant social cohesion that it generates, it is the state which, in France, creates citizenship. In exchange, it demands “unstinting political allegiance”.¹ Consider Rousseau, whose thought continues to have an impact on France which cannot be overestimated: “There is [...] a profession of purely civil faith, the articles of which the sovereign has the task of establishing, not exactly as religious dogmas, but as feelings of sociability without which it is impossible to be either a good citizen or a loyal subject”.² Reference thus continues to be made to “the famous French need for a civil religion”.³ Thus, in France it is hardly an exaggeration to assert that the citizen does not have an identity independently from the state.

A. In the words of article 1 of the Constitution of 4 October 1958, the French Republic is “indivisible” (“*indivisible*”).⁴ The governing idea is that of a unified state designed to give voice to an undifferentiated nation. The French conception of citizenship is abstract. It does not recognize any “horizontal” ties. In the words of Jacques Chirac, then President of the Republic, in a letter to Bernard Stasi, chairing the “Commission on the Consideration of the Principle of Laicity within the Republic” (“Commission de réflexion sur l’application du principe de laïcité dans la République”), an *ad hoc* body appointed by the President: “The [French] Republic consists of citizens; it cannot be divided into communities”.⁵ And it is precisely laicity that must avoid “the risk of a slide toward communitarianism”.⁶ According to the Stasi Commission, whose 11 December 2003 report recommended the enactment of a statute to address the matter of laicity at school, “[t]he [French] Republic does not purport to legitimize the existence of communities”.⁷ Likewise, the 18 March 2004 ministerial circular (“*circulaire*”) distributed after the coming into force of the 15

¹Cécile Laborde, “Citizenship”, transl. by Arthur Goldhammer, in *The French Republic*, ed. by Edward Berenson, Vincent Duclert, and Christophe Prochasson (Ithaca: Cornell University Press, 2011), p. 137.

²Jean-Jacques Rousseau, *Du Contract social*, in *Œuvres complètes*, ed. by Bernard Gagnebin and Marcel Raymond, vol. II (Paris: Gallimard, 1964 [1762]), bk IV, c. 8, p. 468 [“*Il y a donc une profession de foi purement civile dont il appartient au Souverain de fixer les articles, non pas précisément comme dogmes de Religion, mais comme sentimens de sociabilité, sans lesquels il est impossible d’être bon Citoyen ni sujet fidelle*”].

³Michel Troper, “French Secularism, or *laïcité*”, 21 *Cardozo L.R.* 1267 (2000), p. 1276.

⁴For the current version of the French Constitution, see <http://www.legifrance.gouv.fr/html/constitution/constitution2.htm>.

⁵For President Chirac’s letter, see the report of the Stasi Commission at <http://www.ladocumentationfrancaise.fr/rapports-publics/034000725/index.shtml>, p. 2 [“*La République est composée de citoyens; elle ne peut être segmentée en communautés*”] (hereinafter *Stasi Report*).

⁶*Ibid.* [“*le risque d’une dérive vers le communautarisme*”].

⁷*Stasi Report, supra*, note 5, p. 54 [“*La République n’a pas vocation à légitimer l’existence de communautés*”].

March statute specifically observes that the school must be “protected from communitarian claims”.⁸

B. The idea of “minority rights” or “group rights” is rejected in France. There can be no intermediary between the citizen and the state. Indeed, “to figure society in the shape of the One allows [...] for the expression of difference from the *Ancien régime*”.⁹ It is well known that the Revolution formally prohibited intermediary bodies, namely workers’ organizations and religious congregations. Thus, the preamble to the “Le Chapelier” statute dated 14 August 1791 holds that it is “not permitted to anyone to inspire in citizens an intermediary interest, to separate them for the public good through a spirit of cooperation” (“*n’est permis à personne d’inspirer aux citoyens un intérêt intermédiaire, de les séparer de la chose publique par un esprit de coopération*”). Accordingly, “it is hardly conceivable to assert oneself to be either a Britton or a Basque while the hatred of the ‘spirit of corporations’ must everywhere prevail”.¹⁰ The leading idea animating the revolutionary prohibition is to be found in Rousseau who writes that no general will can emerge if the people has divided into factions, each vying for its own interest: “It is [...] important, in order to have the proper expression of the general will, that there should be no partial society within the state”.¹¹ For instance, the 18 May 2004 circular observes that “the state is the protector of the individual and of the collective exercise of freedom of conscience”.¹² Thus, “the Republic acts as if groups and collective identities simply do not exist”.¹³ Accordingly, “[t]he concept of minority group is absent in French legal and legislative texts [...]. It is therefore impossible for policy makers, legislators, and jurists to think about the notion of a minority”.¹⁴ The state “refuses any kind of official recognition of minorities as such, where individuals are identified with a minority group — be it racial, confessional, cultural, and so on — for the purposes of state action (whether redistributive or affirmative)”.¹⁵ Indeed, both the *Conseil d’Etat*, the supreme administrative court, and the Constitutional Council, the body entrusted with the task of constitutional review, have stated repeatedly that group rights are incompatible with the French

⁸Circular no. 2004-084 dated 18 May 2004, *Journal officiel*, 22 May 2004, p. 9033, sub I [“*protég(ée) (...) des revendications communautaires*”] (hereinafter Circular). A circular consists in orders given by an administrative authority to civil servants who are hierarchically subordinated to it. A circular is binding vis-à-vis its addressees.

⁹Pierre Rosanvallon, *Le Modèle politique français* (Paris: Le Seuil, 2004), p. 28 [“(f)igurer la société sous la forme de l’Un permet (...) d’exprimer sa différence avec l’Ancien régime”].

¹⁰Patrick Savidan, *Le Multiculturalisme*, 2d ed. (Paris: Presses Universitaires de France, 2011), p. 49 [“(i)l (est) peu concevable de se revendiquer Breton ou Basque alors que la haine de l’‘esprit de corporation’ (doit) partout prévaloir”].

¹¹Rousseau, *supra*, note 2, bk II, c. 4, p. 372 [“Il importe (...) pour avoir bien l’énoncé de la volonté générale qu’il n’y ait pas de société partielle dans l’Etat”]. See generally Rosanvallon, *supra*, note 9, pp. 25-55, where the author refers in particular, beyond Rousseau, to Sieyès, Guiraudet, Chénier, and Torné, these intellectuals’ ideas all pertaining to the revolutionary obsession in favour of unity.

¹²*Supra*, note 8 [“L’Etat est le protecteur de l’exercice individuel et collectif de la liberté de conscience”].

¹³Jeremy Jennings, “Universalism”, in *The French Republic*, ed. by Edward Berenson, Vincent Duclert, and Christophe Prochasson (Ithaca: Cornell University Press, 2011), p. 150.

¹⁴Miriam Feldblum, *Reconstructing Citizenship* (Albany: SUNY Press, 1999), p. 132.

¹⁵Adrian Favell, *Philosophies of Integration*, 2d ed. (New York: Palgrave, 2001), p. 71.

constitution.¹⁶ In other words, they have expressed “a profoundly Jacobin position according to which the republican idea of the people would be incompatible with a genuine legal or constitutional recognition of certain elements of diversity that this people harbours”.¹⁷

The citizen thus owes allegiance only to the state and not to some sub-set of the people that would be defined according to ethnicity or whatever other criterion. In the public sphere, each citizen must stand on his own: “no body” (“*nul corps*”) may exercise authority “which does not emanate expressly” (“*qui n’[...]émane expressément*”) from the nation.¹⁸ From France’s perspective, either multiculturalism or communitarianism is therefore an unacceptable practice since “it grants political standing to groups [and] brings representatives of concrete, social concerns into the public (legislative) arena, which ought to be a realm of abstraction where decisions are made on behalf of the whole people [...] whose presumed commonality means that any elected representative represents them all”.¹⁹

This idea, which “contrasts sharply with what might be termed the sociological empiricism of Anglo-American constitutionalism and philosophy”,²⁰ connects with the view that rights must be universal and timeless rather than answer a particular set of historically contingent grievances,²¹ while also situating itself within the logic of the civilizing mission and of the universalizing vocation that France has elected to assign itself.²² It also consolidates the French view of laicity as antagonistic to the idea of “culture” in the sense that culture is identified with “the coherence and continuity of groups”.²³ Laicity, however, stands *above* culture in the sense that “the

¹⁶For example, see *Conseil d’état*, 29 November 2002, *Syndicat national des enseignements du second degré (SNES)*, *Rec.*, p. 415; *Conseil constitutionnel*, decision no. 91-290, 9 May 1991, *Loi portant statut de la collectivité territoriale de Corse*, *Rec.*, p. 50.

¹⁷Alain Renaut, *Un humanisme de la diversité* (Paris: Flammarion, 2009), p. 155.

¹⁸“Declaration of the Rights of Man and of the Citizen” (“*Déclaration des droits de l’homme et du citoyen*”), 26 August 1789, art. 3, <http://www.legifrance.gouv.fr/html/constitution/const01.htm>.

¹⁹Joan W. Scott, “Symptomatic Politics”, 23/3 *French Politics, Culture & Society* 106 (2005), pp. 109-10. For a critical analysis of the French aversion towards multiculturalism and communitarianism, addressing the psychological dimension of such hostility, including anti-americanism, see Robert Stam and Ella Shohat, *Race in Translation* (New York: New York University Press, 2012), pp. 137-46.

²⁰Jennings, *supra*, note 13, p. 150.

²¹For example, see Keith M. Baker, “The Idea of a Declaration of Rights”, in *The French Idea of Freedom*, ed. by Dale Van Kley (Stanford: Stanford University Press, 1994), pp. 158-59; Dale Van Kley, “From the Lessons of French History to Truths for All Times and for All People: The Historical Origins of an Anti-Historical Declaration”, in *The French Idea of Freedom*, ed. by Dale Van Kley (Stanford: Stanford University Press, 1994), pp. 107-13.

²²See generally Alice L. Conklin, “The Civilizing Mission”, in *The French Republic*, ed. by Edward Berenson, Vincent Duclert, and Christophe Prochasson (Ithaca: Cornell University Press, 2011), pp. 173-81; Pierre Bouretz, *La République et l’universel* (Paris: Gallimard, 2000).

²³Wendy Brown, *Regulating Aversion* (Princeton: Princeton University Press, 2006), p. 21. Indeed, “given a strict republican logic, France ought never to have had [a science of] anthropology nor have granted any place whatsoever to the notion of culture”: Jean-Loup Amselle, *L’Ethnicisation de la France* (Paris: Nouvelles Editions Lignes, 2011), p. 19 [(*e*)n bonne logique républicaine, la France n’aurait jamais dû avoir d’anthropologie ni accorder une place quelconque à la notion de culture].

French vision of laicity reflects a conception of the political body that bestows unto it the mission to assist its members to emancipate themselves from particularist fetters²⁴ — all manifestations of localism being, according to philosopher Vincent Descombes, “vaguely felt like evil”.²⁵ The French conception of universalism is the object of various critiques stigmatizing its undue abstraction and its detachment from a society which is in fact profoundly diverse,²⁶ its detractors taking the view, moreover, that it is but “a particularism that is blind to itself”²⁷ — in particular because it transformed itself into an ideology serving the interests of dominant groups²⁸ — or even a simple “rhetorical” exercise.²⁹ Yet, the supremacy of the republican model remains intact and continues to be the focus of spirited defences underlying its currency.³⁰

C. The key unit of French political life is not the individual as a person, but the individual as citizen.³¹ Starting with the Revolution, which above all features “an effort to establish citizenship as the dominant identity of every Frenchman — against the alternative identities of religion, estate, family, and region”,³² this endeavour indeed finding its expression in the replacement of the title “*Monsieur*” by “*Citizen*” (“*Citoyen*”),³³ only “citizens” matter. As has been observed, “within citizenship French style, either one belongs [...] to the nation or one belongs to nothing”.³⁴

²⁴Philippe d'Iribarne, *Les Immigrés de la République* (Paris: Le Seuil, 2010), p. 97 [“*la vision française de la laïcité reflète une conception du corps politique qui lui confère la mission d'aider ses membres à s'émanciper des liens particularistes*”].

²⁵Vincent Descombes, *Le Même et l'autre* (Paris: Editions de Minuit, 1979), p. 16 [“*vaguement senti(es) comme le mal*”]. See generally Stéphane Gerson, “The Local”, in *The French Republic*, ed. by Edward Berenson, Vincent Duclert, and Christophe Prochasson (Ithaca: Cornell University Press, 2011), pp. 213-20.

²⁶For example, see Pierre Birnbaum, “*La France aux Français*” (Paris: Le Seuil, 1993); Joël Roman, *La Démocratie des individus* (Paris: Calmann-Lévy, 1998); Farhad Khosrokhavar, “L'universel abstrait, le politique et la construction de l'islamisme comme forme d'altérité”, in *Une société fragmentée?*, ed. by Michel Wieviorka (Paris: La Découverte, 1996), pp. 113-51; *La Politisation du voile*, ed. by Françoise Lorcerie (Paris: L'Harmattan, 2005); Jean Baubérot, *L'Intégrisme républicain contre la laïcité* (La Tour d'Aigues: Editions de l'Aube, 2006); Iribarne, *supra*, note 24; Amselle, *supra*, note 23; John R. Bowen, *Can Islam Be French?* (Princeton: Princeton University Press, 2010); Bruno Latour, “La République dans un foulard”, *Le Monde*, 18-19 January 2004, p. 1. See also Sophie Guérard de Latour, *Vers la République des différences* (Toulouse: Presses Universitaires du Mirail, 2009).

²⁷Gérard Noiriel, *A quoi sert “l'identité nationale”* (Marseille: Agone, 2007), p. 17, not. 1 [“*un particularisme qui s'ignore*”].

²⁸For example, see Bertrand Guillarme, “L'individu et le groupe”, (84) *Pouvoirs* 31 (1988), p. 40.

²⁹Laborde, *supra*, note 1, p. 142.

³⁰For example, see Jean-Fabien Spitz, *Le Moment républicain en France* (Paris: Gallimard, 2005).

³¹For an examination of this idea from the standpoint of political philosophy, see Lucien Jaume, *L'Individu effacé* (Paris: Fayard, 1997). For a detailed exploration of republican assumptions, see Claude Nicolet, *L'Idée républicaine en France* (Paris: Gallimard, 1982).

³²Michael Walzer, “Citizenship”, in *Political Innovation and Conceptual Change*, ed. by Terence Ball, James Farr, and Russell L. Hanson (Cambridge: Cambridge University Press, 1989), p. 211.

³³*Ibid.*

³⁴Sophie Duchesne, *Citoyenneté à la française* (Paris: Presses de Sciences Po., 1997), p. 330 [“(d)ans la citoyenneté à la française, soit on appartient (...) à la nation; soit on n'appartient à rien”].

1. One central feature of the French conception of “citizenship” concerns equality before the law. Thus, article 1 of the Constitution of 4 October 1958 states in so many words that “[France] shall ensure the equality of all citizens before the law” (“[La France] assure l’égalité devant la loi de tous les citoyens”).³⁵

2. France prides itself on advocating a universalist idea of “citizenship” which depends on the willingness of the people to live together as a nation. To borrow from Ernest Renan’s famous Sorbonne speech of 11 March 1882, “What Is a Nation?” (“*Qu’est-ce qu’une nation?*”), a nation, for the French, is about “consent”; it depends on a “common will in the present”, on the clearly expressed “desire to live together”.³⁶ Having struck a particular chord, Renan’s focus on togetherness continues to be used nowadays, for example in the 18 May 2004 circular where reference is expressly made to the notion of “a wanting-to-live-together”.³⁷ What is at stake, in Renan’s famous words, is nothing less than “a daily referendum”.³⁸ And the view continues to be expressed that being French must be a matter of “conscious adhesion”, the result of an “act of will”, so that “the nation [is] being lived as a pact”,³⁹ as opposed, say, to an organic conception of citizenship whereby one’s condition would be dictated to one on account of one’s ethnical belongingness to a nation, that is, because of characteristics that would be intrinsic or, so to speak, immutable — which would entail that, in the end, the matter of citizenship would escape the control of the individual.

Indeed, in revolutionary France, in a context where fear of the foreigner was “very acute”,⁴⁰ the word “*étranger*” (“foreigner”) did not specifically refer to aliens, but embraced all opponents to the new French order including individuals who were legally “French”. Thus, one could be French and still be branded a “foreigner” for ideological reasons. In other words, ideological opposition counted more than nationality, which returns one to the idea that what primarily matters is not race or ethnicity but rather something like social

³⁵*Supra*, note 4.

³⁶Ernest Renan, *Qu’est-ce qu’une nation?*, ed. by Shlomo Shand (Paris: Flammarion, 2011 [1882]), p. 74 [“*consentement*”/“*volonté commune dans le présent*”/“*désir de vivre ensemble*”]. It has been noted that Renan is, in effect, defending a narrow understanding of his “wanting-to-live-together” as he confines its scope to the French who share common ancestors. See Noiriél, *supra*, note 27, pp. 19-20.

³⁷Circular, *supra*, note 8, sub I [“*un vouloir-vivre-ensemble*”]. See also Alain Touraine, *Pourrons-nous vivre ensemble?* (Paris: Fayard, 1997).

³⁸Renan, *supra*, note 36, p. 75 [“*un plébiscite de tous les jours*”].

³⁹Alain Finkielkraut, in Commission de la nationalité, *Etre Français aujourd’hui et demain* (Paris: Union générale d’éditions, 1988), vol. I, pp. 595, 601, and 599, respectively [“*adhésion consciente*”/“*acte de volonté*”/“*la nation étant vécue comme pacte*”]. Finkielkraut, a prominent intellectual on the French scene, made this statement on the occasion of his testimony delivered on 16 October 1987 before a government-appointed commission which had been entrusted with an examination of the law concerning citizenship from an interdisciplinary perspective and with making recommendations as regards legislative reform.

⁴⁰Jean-Pierre Gutton, *Etablir l’identité* (Lyon: Presses Universitaires de Lyon, 2010), p. 121 [“*très vive*”].

consciousness or, to borrow Rousseau's formula, a "social contract".⁴¹ To this day, "the French credo of republican assimilation ignoring ethnic realities",⁴² people in France are not categorized by reference to their ethnic origin. Accordingly, the French census does not ask individuals to register an ethnic specificity, the solicitation of information that would reveal "directly or indirectly" the ethnic origin of an individual being legally prohibited.⁴³ For example, in November 2007, the Constitutional Council invalidated a bill because one of its provisions was contemplating the numbering of ethnic groups.⁴⁴ The strength of feeling on this issue is perhaps evidenced by a reply from then President Jacques Chirac to a woman raising the matter of ethnic origins in New Caledonia, a French overseas territory: "The idea of checking a box for ethnic identity in an official document is properly speaking scandalous and contrary to the principles of the Republic. One can only condemn it in the most severe way. It is illegal and immoral".⁴⁵ In France, the point of view attacking such "preference for ignorance" remains distinctly marginal.⁴⁶

Unlike the situation prevailing, say, in Germany, which has long privileged an organic, or ethnic idea of the nation (as formulated through the concept of "Volk"), though having relaxed it since the early 1990s,⁴⁷ the governing conception of citizenship in France is cultural. There is "a French national personality" and "[t]o be a French citizen is to reflect, as an individual, the collective personality that was founded in the French Revolution and embodied in the laws and conventional practices of the French Republic, and that is recounted in its national story".⁴⁸ Acceptance of French culture is the

⁴¹See Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge: Harvard University Press, 1998), pp. 46-48. For Rousseau, see *supra*, note 2.

⁴²Marie-Claude Blanc-Chaléard, *Histoire de l'immigration* (Paris: La Découverte, 2001), p. 102 ["*le credo de l'assimilation républicaine fai(sant) fi des réalités ethniques*"].

⁴³Statute no. 78-17 Dated 6 January 1978 Regulating Data Processing, Data Files, and Individual Liberties ("*Loi relative à l'informatique, aux fichiers et aux libertés*"), art. 8, *Journal officiel*, 7 January 1978, p. 227 ["*directement ou indirectement*"]. In 1990, however, the category of "immigrant" ("*immigrant*") was adopted. See Yaël Brinbaum, "Immigration in France: Concepts, Measurement and Survey", being the proceedings of a conference entitled "Canadian and French Perspectives on Diversity", Gatineau (Quebec), 16 October 2003, <http://dsp-psd.pwgsc.gc.ca/Collection/CH36-4-1-2004E.pdf>, pp. 69-74.

⁴⁴Constitutional Council, decision no. 2007-557, 15 November 2007, *Loi relative à la maîtrise de l'immigration, à l'intégration et à l'asile, Rec.*, p. 360.

⁴⁵*Les Nouvelles calédoniennes*, 25 July 2003, <http://www.lnc.nc/pays/175-evenements/94474-chirac-a-parle-au-cœur-des-jeunes.html> ["*L'idée de faire cocher une identité ethnique dans un document officiel est proprement scandaleuse et contraire aux principes de la République. On ne peut que la condamner de la manière la plus sévère. C'est illégal et immoral*"] (visited on 15 August 2010). I can supply a PDF copy of this text.

⁴⁶Michèle Tribalat, *Les Yeux grands fermés* (Paris: Denoël, 2010), p. 209 ["*préférence pour l'ignorance*"].

⁴⁷For an examination of the traditional approach, see Brian Vick, "The Origins of the German Volk: Cultural Purity and National Identity in Nineteenth-Century Germany", 26 *German Studies R.* 241 (2003). For a general account including a summary of post-1990 legislative initiatives, see Patrick Weil, *Qu'est-ce qu'un Français?*, 2d ed. (Paris: Gallimard, 2005), pp. 281-315.

⁴⁸Talal Asad, *Formations of the Secular* (Palo Alto: Stanford University Press, 2003), p. 176.

criterion for citizenship in the French state.⁴⁹ A French citizen is someone who has internalized a common cultural legacy — which entails that “either one is French or one is not” and that “if one [is French], one is so in a manner rigorously identical to [that of] every other French person”.⁵⁰ Accordingly, “affirmative action” is “radically foreign to [the French legal-political culture”].⁵¹

While Napoleon wished citizenship to be based on a combination of *jus soli* and *jus sanguinis* in order to institute as many Frenchmen as possible with a view to military benefits, he yielded to the arguments of one of the codifiers of the 1804 civil code, Tronchet, and of a revolutionary leader, Sieyès, who both believed that being born in France was not enough to make one feel French. France was a family, said Siéyès, and like the family name, citizenship ought to be transmitted through the father.⁵² Indeed, “French nationality, whether obtained by one or the other means, is an endowment with political and moral dimensions, that imposes a normative burden on its recipients. A French national, once a member, cannot escape the constitutive French identity that such membership imposes. It is for this reason that membership cannot be seen as an act of charity to stateless people, or a merely instrumental act of the state to classify newcomers”.⁵³ In other terms, “the narratives that define ‘being French’, and the practices they authorize, cannot be regarded as inessential”, which means that “*French citizens [...] cannot be de-essentialized*”.⁵⁴

3. This is not to say that the French notion of “citizenship” has remained static over time.⁵⁵ This is not to suggest either that the idea of “culture” has remained constant.⁵⁶ However, even though these notions have evolved, the governing idea defining citizenship has consistently been “cultural” and the abiding goal has inexorably been “acculturation”, that is, a citizenry which would be fully assimilated culturally and, as such, unified.⁵⁷ To this day, not

⁴⁹For example, see Joan W. Scott, *The Politics of the Veil* (Princeton: Princeton University Press, 2007), pp. 12-13.

⁵⁰Iribarne, *supra*, note 24, p. 58 [“*Ou on est français ou on ne l’est pas*”/“*Si on l’est, c’est de manière rigoureusement identique à tout autre Français*”].

⁵¹Gwénaële Calvès, *La Discrimination positive*, 3d ed. (Paris: Presses Universitaires de France, 2010), p. 61. Indeed, the French translation for “affirmative action” is “*discrimination positive*”, literally “positive discrimination”. The use of the word “discrimination”, and the correlative lack of the dynamism associated with words like “affirmative” or “action”, well illustrates French uneasiness with the idea.

⁵²See Weil, *supra*, note 47, pp. 48-52; Peter Sahlins, *Unnaturally French* (Ithaca: Cornell University Press, 2004), pp. 291-94.

⁵³Favell, *supra*, note 15, p. 66.

⁵⁴Asad, *supra*, note 48, p. 176 [emphasis original].

⁵⁵For example, see *Id.*, pp. 40-94 and 150-99. For a critical and influential narrative of the eventful history of immigration in France, see Gérard Noiriel, *Le Creuset français*, 2d ed. (Paris: Le Seuil, 2006).

⁵⁶See Maxim Silverman, *Deconstructing the Nation* (London: Routledge, 1992), p. 9.

⁵⁷For a thorough examination of the logic of assimilation in France, see Abdellali Hajjat, *Les Frontières de l’“identité nationale”* (Paris: La Découverte, 2012). For an ethnographic investigation showing the practices of

least for French political elites, adhesion to the French nation remains eminently subordinated to the acceptance of acculturation or homogenization, that is, to the cultural authority wielded by the Republic. Thus, “the matter of identity affiliations [is relegated] to the private sphere in the same way as all other particularizing convictions, such as religious beliefs”.⁵⁸ Though this conception, which “combines high universalist ideals with a ‘mythical’ retelling of a long historical tradition that grounds these ideals”,⁵⁹ pre-dates the Revolution,⁶⁰ it continues to be robustly expressed. Indeed, “[its] triumph has been so forceful as to render much internal French discussion blind to its own parameters”.⁶¹ Without exaggeration, it has been held that “homogenization processes [...] overdetermine all interrogations on the forms of organization of the state and on the framework and goals of public initiatives”.⁶² But this is certainly not to intimate that France has, in fact, ever achieved the republican consensus that it has been pursuing.⁶³ As has been argued, “[the] dominant French discourse [...] seeks to deny the most important feature of French popular culture; namely, that it is heterogeneous to the core”.⁶⁴ Thus, leading French historians refer to the “French unitary myth” and to an “utopian generality”,⁶⁵ while a well-known French sociologist resorts to the idea of “fiction”.⁶⁶ Despite the fact that “France [has been], since the Revolution, a unitary administrative entity, wonderfully centralized, obsessed with rationality”,⁶⁷ French anthropological diversity remains very much alive.

assimilation at work according to various indicators (“the loss of native languages across generations, the crushing of traditional marital practices, the progression of mixed marriages, the development of religious practices, the opening of social practices to French society, social mobility, the elaboration of a national bond”), see Michèle Tribalat, *Faire France* (Paris: La Découverte, 1995), p. 216 [*“déperdition des langues d’origine au fil des générations, laminage des pratiques matrimoniales traditionnelles, progression des unions mixtes, aménagement des pratiques religieuses, ouverture des pratiques sociales sur la société française, mobilité sociale, élaboration d’un lien national”*].

⁵⁸Savidan, *supra*, note 10, p. 50 [*“la question des affiliations identitaires (est renvoyée) à la sphère privée, au même titre que toutes les autres convictions particularisantes, telles que les croyances religieuses”*].

⁵⁹Favell, *supra*, note 15, p. 151.

⁶⁰See Brubaker, *supra*, note 41, p. 85.

⁶¹Favell, *supra*, note 15, p. 150.

⁶²Savidan, *supra*, note 10, p. 50 [*“Les processus d’homogénéisation (...) surdéterminent toutes les interrogations sur les formes d’organisation de l’Etat et sur le cadre et les fins de l’action publique”*].

⁶³For example, see Eugen Weber, *Peasants Into Frenchmen* (Palo Alto: Stanford University Press, 1976), pp. 95-114.

⁶⁴David A. McMurray, “La France arabe”, in *Post-colonial Cultures in France*, ed. by Alec G. Hargreaves and Mark McKinney (London: Routledge, 1997), p. 38.

⁶⁵Noiriel, *supra*, note 55, p. 20 [*“mythe unitaire français”*]; Rosanvallon, *supra*, note 9, p. [21] (*“généralité utopique”*), respectively.

⁶⁶Dominique Schnapper, *Qu’est-ce que l’intégration?* (Paris: Gallimard, 2007), p. 88 [*“fiction”*].

⁶⁷Hervé Le Bras and Emmanuel Todd, *L’Invention de la France* (Paris: Gallimard, 2012), p. 9 [emphasis omitted] (*“La France est, depuis la Révolution, un ensemble administratif unitaire, merveilleusement centralisé, obsédé de rationalité”*). This book, which numbers more than 500 pages, offers a mapping of what the back cover refers to as the “repression of difference” in France [*“refoulement de la différence”*].

4. French nationhood being centrally expressed in the striving for cultural unity, this conception of “Frenchness” has entailed cultural assimilation for regional cultural minorities and immigrants alike — a policy which an analyst has described as “[f]ollowing the [i]ntegration [l]ine *jusqu’au bout*”.⁶⁸ In this regard, historian Pierre Rosanvallon explains how the state has made itself into an “institutor of the social” in XIXth-century France with a view to mitigating the elimination of all intermediary bodies during the Revolution with the attendant deterioration of the social fabric. More precisely, he shows how the state has replaced the structuring principle that used to be provided by the corporate order with another doctrine. Meant to act as a substitute for corporate matrices, this new paradigm articulates itself around the idea of a self that would be unitary and autonomous, stable and strong.⁶⁹ Just like the self of every French person, the immigrant’s self is taken to be able to liberate itself from any cultural specificity,⁷⁰ that is, to be in a position to emancipate itself from any cultural constraint encumbering it, provided the individual is willing to engage in this re-configuration. Accordingly, the denial of one’s cultural identity has become a *sine qua non* condition of accession to French citizenship.⁷¹ In line with a specifically “republican” idea of the nation, which entails an understanding of citizenship involving a fully-fledged assimilation to French culture, this integration process features a linguistic dimension.⁷²

It must be emphasized that “[French republican philosophy] always put[s] the deontological sacredness of the republican ideals ahead of a rational and

⁶⁸Favell, *supra*, note 15, p. 150. The words “*jusqu’au bout*” appear in French and in italics.

⁶⁹See Pierre Rosanvallon, *L’Etat en France* (Paris: Le Seuil, 1990), pp. 95-99. I quote from p. 93 [“*instituteur du social*”]. In this respect, the author notes France’s “remarkable characteristics” vis-à-vis England. I quote from p. 97 [“*caractéristiques remarquables*”]. For an in-depth study of the processes seeking to foster the institutionalization of the self in XIXth-century France, to a large extent on account of the influence of Victor Cousin, a philosopher and, as of 1840, a Minister of Public Education (“*ministre de l’Instruction publique*”), see Jan Goldstein, *The Post-Revolutionary Self* (Cambridge: Harvard University Press, 2005). Emphasizing the significance of these initiatives, Goldstein refers to a “structuring principle”. I quote from p. 11 [“*principe structurant*”]. For his part, Cousin expressly claimed allegiance to Descartes and to the Cartesian self. For example, see François Azouvi, *Descartes et la France* (Paris: Fayard, 2002), pp. 170-71.

⁷⁰In an interview with John Bowen, Blandine Kriegel, a philosopher and, from 2002 to 2008, the president of the *Haut Conseil à l’intégration* — a body entrusted with the task of making recommendations to the state concerning the integration of immigrants into French society — expressly formulates this idea: “here in France each individual has to abstract her/himself from her/his traditions and accept the transfer of certain rights to the Law. That is the contract: we move from pluralism to unity through consent”: John R. Bowen, *Why the French Don’t Like Headscarves* (Princeton: Princeton University Press, 2007), p. 14 [“*ici, en France, chaque individu doit s’abstraire de (ses) traditions et accepter le transfert de certains droits à la Loi. Tel est le contrat: nous allons du pluralisme à l’unité par le consentement*”].

⁷¹See Scott, *supra*, note 49, p. 127. The idea of an “encumbered self[f]”, that is, of an individual embedded in commitments which he cannot renounce, is Michael Sandel’s. For example, see Michael Sandel, “Religious Liberty: Freedom of Choice or Freedom of Conscience”, in *Secularism and Its Critics*, ed. by Rajeev Bhargava (Oxford: Oxford University Press, 1998), p. 87.

⁷²See Brubaker, *supra*, note 41, pp. 35-49.

practical compromise”.⁷³ Thus, there has consistently been strong ideological cohesion around the view that, in the words of a leading French political scientist, “the values of [the] French Republic are universal and thereby attractive”,⁷⁴ such that the precepts governing French identity have long been unchallengeable. In the process, effective denial of one’s cultural identity has become the *sine qua non* cost of access to French citizenship. It is, in fact, striking how even a leading French scholar having written a number of studies extolling the merits of an understanding of cultural differences, for example in the business world, asserts how “one has to acknowledge that newcomers and their descendants must be subjected to pressure encouraging them to adopt widely, beyond [showing] respect for the law, the ways that mark the French social body, despite the cost that such a change of reference points may represent for them”.⁷⁵ As “rector and vector of national education”,⁷⁶ France’s ambition remains uncompromising: “To prevent [the individual] from becoming a political actor outside of the rules set by the nation”.⁷⁷ In Rosanvallon’s words, “to produce the nation means for the state permanently to atone for appearances”.⁷⁸ Along these lines, from June 2007 to November 2010, France had a fully-fledged “Ministry of Immigration, Integration, National Identity and Co-development” (or “*Ministère de l’immigration, de l’intégration, de l’identité nationale et du développement solidaire*”), the words “immigration”, “integration” and “national identity” having therefore been officially juxtaposed.⁷⁹ Unsurprisingly, the French model has been presented as offering an “absolute counter-example” to the multiculturalist approach.⁸⁰

⁷³Favell, *supra*, note 15, p. 174.

⁷⁴Patrick Weil, *Etre français* (La Tour d’Aigues: Editions de l’Aube, 2011), p. 18 [“*les valeurs de (la) République sont universelles et par là même attractives*”].

⁷⁵Philippe d’Iribarne, *Les Immigrés de la République* (Paris: Le Seuil, 2010), p. 125 [“*Il faut (...) admettre que les nouveaux venus et leurs descendants soient soumis à une pression les incitant à adopter largement, au-delà du respect des lois, les usages qui marquent le corps social français, en dépit du coût que représente pour eux un tel changement de repères*”]. Books by this author attesting to a valorization of culture on his part include *La Logique de l’honneur* (Paris: Le Seuil, 1989); *Penser la diversité du monde* (Paris: Le Seuil, 2008); and *L’Epreuve des différences* (Paris: Le Seuil, 2009).

⁷⁶[Pierre Nora], “Présentation”, in *Les Lieux de mémoire*, ed. by Pierre Nora, vol. II, t. 1 (Paris: Gallimard, 1986), p. xv [italics omitted] (“*recteur et vecteur de la formation nationale*”).

⁷⁷Noiriel, *supra*, note 55, p. 335 [“*empêcher (l’homme) de devenir un acteur politique en dehors des règles fixées par la nation*”].

⁷⁸Rosanvallon, *supra*, note 69, p. 110 [“*produire la nation, c’est pour l’Etat procéder à un rachat permanent des apparences*”].

⁷⁹For a detailed critique of this initiative, see Noiriel, *supra*, note 27. Having personally instituted this ministry, President Nicolas Sarkozy abolished it on the occasion of a reshuffle announced on 14 November 2010.

⁸⁰Pierre Birnbaum, “Entre universalisme et multiculturalisme: le modèle français dans la théorie politique contemporaine”, in *La Constellation des appartenances*, ed. by Alain Dieckhoff (Paris: Presses de Sciences Po., 2004), p. 274 [“*contre-exemple absolu*”].

- A highly-respected school sector entrusted with the highly-valued mandate of instituting French republican values and designed as a “neutral” space beyond the reach of counter-powers (such as the church, groups, or the family).

As the favoured vehicle for state intervention concerning the constitution of citizenship and the promotion of republican ideology, that is, as regards the fashioning of “Frenchness”, the school plays a key role.⁸¹ Featuring “an extraordinary pedagogical optimism”,⁸² the very point of the school is “[t]o teach France” such that at school “[t]he nation becomes the framework and the purpose of all learning, from history to morality, from botany to the rules of politeness”.⁸³ According to the Stasi Commission, “the first venue for the learning of republican values is and must remain the school”.⁸⁴ This conception of the matter, this “model of integration [...] through the school”,⁸⁵ makes the schoolteacher — in French, the “*instituteur*”/“*institutrice*”, that is, the one who “institutes” or “educates into the institution” — the most important agent of the state in the acculturation enterprise,⁸⁶ “a figurehead of the Republic”.⁸⁷

As early as 1794, Napoleon established the *Ecole Normale Supérieure* — one of the so-called “*grandes écoles*” (literally, “great schools”) — so that the state could train teachers itself.⁸⁸ Having become civil servants in 1889, teachers have since spontaneously fostered state ideology — all the while being convinced that “by showing one’s republican sympathy, one does not at all break with the neutrality demanded by the practice of the profession”.⁸⁹ Between 1880 and 1912, four more specialized “*écoles normales*” (or “normal schools”) were created.⁹⁰ All schoolteachers graduating from these schools are invested with a genuine mandate known as a “public service mission” (or “*mission de service public*”) —

⁸¹For an in-depth study of the school in France, Jean-Michel Chapoulie, *L’Ecole d’Etat conquiert la France* (Rennes: Presses Universitaires de Rennes, 2010). See also Mona Ozouf, *L’Ecole de la France*, (Paris: Gallimard, 1984). For an influential historical panorama on the role of the school in France, see Weber, *supra*, note 63, pp. 303-38.

⁸²Jennings, *supra*, note 13, p. 149.

⁸³Anne-Marie Thiesse, *Faire les Français* (Paris: Stock, 2010), pp. 70 and 73, respectively [“*Apprendre la France*”/“*La nation devient le cadre et la finalité de tous les apprentissages, de l’histoire à la morale, de la botanique aux règles de politesse*”].

⁸⁴Stasi Report, *supra*, note 5, p. 51 [“*Le premier lieu d’apprentissage des valeurs républicaines est et doit rester l’école*”].

⁸⁵Béatrice Compagnon and Anne Thévenin, *L’Ecole et la société française* (Brussels: Complexe, 1995), p. 203 [“*modèle d’intégration (...) par l’école*”].

⁸⁶For example, see Jacques Ozouf and Mona Ozouf, *La République des instituteurs* (Paris: Le Seuil, 2001); Françoise Mayeur, *Histoire générale de l’enseignement et de l’éducation en France*, vol. III (Paris: Perrin, 2004); Weber, *supra*, note 63, p. 303.

⁸⁷Anne Thévenin and Béatrice Compagnon, *L’Ecole en France* (Toulouse: Milan, 2005), p. 8 [“*une figure de proue de la République*”].

⁸⁸See generally Robert J. Smith, *The Ecole Normale Supérieure and the Third Republic* (Albany: SUNY Press, 1981).

⁸⁹Ozouf and Ozouf, *supra*, note 86, p. 149 [“*en affichant sa sympathie républicaine, on ne sort nullement de la neutralité exigée par l’exercice du métier*”].

⁹⁰The word “normal” refers to the exemplary role of the institution. It evokes the fact that it exists to serve as a model, that it is there to supply the reference or the norm.

thus the reference to “the Republic’s missionaries”⁹¹ —to educate the French people into republicanism, that is, to reduce difference to common experience or, in the words of the distinguished French historian, Mona Ozouf, “[to] striv[e] to make [students] the same”.⁹² It has been said that “a single thread thus guides all successive reforms in the matter of education [in the XVIIIth and XIXth centuries]: the obsession to train citizens, that is, individuals prepared for collective life, aware of their community of destiny”.⁹³ This task, joined with their status as civil servants (a social function that continues to be highly respected in France), confers on schoolteachers undeniable moral authority.⁹⁴ In his 1913 book, *L’Argent*, Charles Péguy, the celebrated humanist, called schoolteachers, “black hussars”, making implicit reference to Hungarian soldiers reputed for their efficacy and devotion. Péguy wrote that the *Ecole Normale* appeared to be “an inexhaustible regiment”. It was like “an immense governmental depot of youth and civic responsibility”.⁹⁵

The goals of the republican pedagogical project which, from the French official standpoint, involve, “at each *rentrée des classes*”,⁹⁶ the “diffus[ion] [of] a corpus of objective knowledge” about the Republic,⁹⁷ are held as being “at once emancipatory and regulatory”.⁹⁸ While it is agreed, predictably, that students must be supplied with the intellectual tools destined to ensure the construction of their intellectual autonomy, it is also felt, paradoxically, that they must agree to have their individuality disciplined and to be bound by an unconditional obedience to the nation-state. To put the matter succinctly, the dominant paradigm involves the convoluted view to the effect that “[t]he school liberates through closure and regulation”.⁹⁹ In other words, students are not at liberty to fashion

⁹¹Béatrice Compagnon and Anne Thévenin, *Histoire des instituteurs et des professeurs* (Paris: Perrin, 2010), p. 20 [italics omitted] (“missionnaires de la République”).

⁹²Mona Ozouf, *Composition française* (Paris: Gallimard, 2009), p. 105 [“s’ingénier] à (...) rendre (les élèves) pareils”].

⁹³Rosanvallon, *op. cit.*, note 69, p. 108 [“un même fil guide ainsi toutes les réformes successives en matière d’éducation (aux XVIIIe et XIXe siècles): l’obsession de former des citoyens, c’est-à-dire des individus préparés à la vie collective, conscients de leur communauté de destin”]. This quotation prompts one to refer to a critique of the French model to the effect that “citizenship ‘French style’ defines itself as a community, but without saying so”: Jacques T. Godbout, “Qui a peur de la communauté?”, 6 *Théologiques* 29 (1998), p. 30 [“la citoyenneté ‘à la française’ se définit elle-même comme communauté, mais sans le dire”].

⁹⁴An author thus readily refers to the “esteem” in which the school is held and does not hesitate to qualify it as a “grande dame”: Jean Vial, *Histoire de l’éducation*, 4th ed. (Paris: Presses Universitaires de France, 2010), pp. 104 et 117, respectively [“considération”/“grande dame”]

⁹⁵Charles Péguy, *L’Argent* (Paris: Gallimard, 1932 [1913]), p. 26 [“hussards noirs”/“un régiment inépuisable”/“un immense dépôt, gouvernemental, de jeunesse et de civisme”].

⁹⁶Ernest Gellner, *Culture, Identity and Politics* (Cambridge: Cambridge University Press, 1987), p. 17. The words “rentrée des classes” appear in French and in italics.

⁹⁷Cécile Laborde, “On Republican Toleration”, 9 *Constellations* 167 (2002), p. 170.

⁹⁸Judith Surkis, *Sexing the Citizen: Morality and Masculinity in France, 1870-1920* (Ithaca: Cornell University Press, 2006), p. 18.

⁹⁹Catherine Kintzler, *La République en questions* (Paris: Minerve, 1996), p. 72 [“L’école libère en enfermant et en réglant”]. Cf. Henri Pena-Ruiz, *Qu’est-ce que la laïcité?* (Paris: Gallimard, 2003), p. 107, where the author observes that “[t]he school is not made to enthrone particularisms, but to instruct and liberate”, while adding that at school there must take place a “distancing of affiliations” — which allows him to underscore “[t]he specificity of the school place with regard to civil society” [“(l’)école n’est pas faite pour introniser les particularismes, mais pour instruire et libérer”/“mise à distance des appartenances”/“(l)a spécificité du lieu

their educated selves outside of the space of edification opened for them by the state on the state's own terms.¹⁰⁰ One thus witnesses a “radicaliz[ation] [of] the distinction between public and private”.¹⁰¹ No “particular *political* identity” is possible within the public sphere,¹⁰² such that the school recognizes only “the universal student”.¹⁰³ In other words, students are meant to become, within the public sphere at least, but reflective surfaces mirroring state ideology.¹⁰⁴ As Ernest Gellner underlines, the emphasis on the learning of republican values is supplemented by a sustained debasement of other values which, for their part, are not the focus of any teaching whatsoever.¹⁰⁵ “[C]ultural relativism”, the assertion of “individualities and [...] cultural particularisms” and “identitarian claims” being apprehended as sources of “destabiliz[ation]”,¹⁰⁶ the exclusive “fidelity of the teaching body to republican values” remains unquestioned.¹⁰⁷ Given “the awesome efficiency of its assimilative institutions”¹⁰⁸ — let us recall that the school “has become the first employer [of France]”, “manages one quarter of the country’s inhabitants”, “holds [...] the largest area of real estate”, and receives “[t]he most important state budget”, in sum that it “[has] earned first place in the nation” —,¹⁰⁹ one is hardly surprised that an observer should note how “the feeling of belonging to the same nation [is] stronger [in France] than anywhere else in Europe”.¹¹⁰

scolaire au regard de la société civile”]. Later, he notes that in the face of “a communitarian or family tutelage”, “school work is hardly possible, or at least loses the serenity that conditions its success”: *id.*, p. 109 [“*une tutelle communautariste ou familiale*”/“*le travail scolaire n’est guère possible, ou du moins perd la sérénité qui conditionne sa réussite*”].

¹⁰⁰This argument informs the analysis of those who claim that the statute dated 15 March 2004 is not in any way Islamophobic since this law does not contemplate any religion specifically and aims to protect the school from any religious influence whatsoever. But Etienne Balibar is not persuaded and chastises “the official references to ‘large crucifixes’ of which no one has ever seen a shred of evidence outside of certain traditionalist reunions”: Etienne Balibar, “Dissonances dans la laïcité”, (33-34) *Mouvements* 148 (2004), p. 149 [“*les références officielles aux ‘grandes croix’ dont personne n’a jamais vu l’ombre en dehors de quelques rassemblements traditionalistes*”].

¹⁰¹Laborde, *supra*, note 97, p. 138. Note that in religious matters, the distinction between the “public” and “private” spheres would also have to do with the domination of Catholicism for which religion is to be squarely located “deep inside” the self, while within orthodox Judaism or Islam, for example, one favours a “social community of morals and rules”: Balibar, *supra*, note 100, p. 149 [“*for intérieur*”/“*communauté sociale de mœurs et de règles*”].

¹⁰²Dominique Schnapper, *La Communauté des citoyens* (Paris: Gallimard, 1994), p. 100 [emphasis original] (“*identité politique particulière*”).

¹⁰³Compagnon and Thévenin, *supra*, note 91, p. 359 [“*l’élève universel*”].

¹⁰⁴Thus, “[t]here will never be Sikh civil servants in France”: Kriegel, in Bowen, *supra*, note 70, p. 14.

¹⁰⁵See Gellner, *supra*, note 96, p. 17.

¹⁰⁶Compagnon and Thévenin, *supra*, note 91, p. 359 [“*le relativisme culturel*”/“*individualités et (...) particularismes culturels*”/“*revendications identitaires*”/“*déstabilis(ation)*”].

¹⁰⁷*Id.*, p. 279 [“*fidélité du corps enseignant aux valeurs (...) républicaines*”].

¹⁰⁸Laborde, *supra*, note 97, p. 139.

¹⁰⁹Vial, *supra*, note 94, p. 118 [“*est devenue le premier employeur (de France)*”/“*gère le quart des habitants du pays*”/“*possède (...) le plus grand domaine foncier*”/“*(le) plus important budget de l’Etat*”/“*(a) obtenu la première place dans la nation*”].

¹¹⁰Weil, *supra*, note 74, p. 16 [“*le sentiment d’appartenance à une même nation (est) plus fort (en France) que partout ailleurs en Europe*”].