

A European Approach to Multicultural Citizenship: Legal, Political and Educational Challenges

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Public and political debates on multicultural crises in France

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1. Introduction

It is probably not exaggerated to state that the French society has never considered itself as a multicultural society. In France, multiculturalism remains strongly associated to foreign experiences, especially the British and US models, and negatively perceived as the opposite of the French republican “model of integration”. It is mainly defined as a political model relying on the recognition and valorisation of ethnic communities and their cultural differences. Multiculturalism is above all thought “in negative”, as what the French society is not and should not become, as absolutely antinomic to the “republican integration”. In the French debates on “integration”, multiculturalism most often acts as a negative reference, and is tightly associated to a “communitarianism” which itself is seen as a threat to national identity and republican values. Debates on multiculturalism constantly construct multiculturalism as the opposite of “integration” and as a synonym of “communitarianism”. At the same time, within the French social sciences, deeply marked by the “State thought” on “integration” (Amiriaux, Simon, 2006; Sayad, 1999), multiculturalism has rarely been mobilized as a central concept¹.

However, some recent developments suggest that this traditional framing of the debates is challenged. The debates on multiculturalism have been deeply renewed since the 1990s with the emergence of the issue of ethnic discriminations, and with, in parallel, the growing demands of recognition expressed by some minority groups. Today, there is an hesitation in the way in which the French society sees itself, its ethnic diversity, and the good manner to manage this ethnic diversity. Recognition of France’s 150 year history of immigration has only recently come about due to an awareness campaign both on the part of social science researchers and through the increasing demands for recognition made by immigrants and their descendants. Following on the heels of this awareness, the management of immigrant diversity has acquired an important place on political agendas, reflecting the changing ways in which French society views itself.

Yet, the sociological and political construction of the ‘immigration issue’ remains unique in France, neither following the immigration path of other countries in Europe and North America, nor employing the same vocabulary. In France, the obfuscation of the ethnic division of society results from a long tradition of assimilation discourses and techniques, forming what is commonly called the ‘French model of integration’ (Schnapper, 1991). In 1989, a new body was established, the High Council for Integration (Haut Conseil à l’Intégration, HCI) whose purpose was to inform and give advice to the authorities on the integration of immigrants. The HCI quickly announced that a voluntarist policy was on the agenda. In 1991, it devised the most precise institutional definition of the objective of any official integration policy:

“Integration is a way to obtain the active participation to society as a whole of all women and men who are lastingly going to live on our land while overtly accepting that specific, mostly cultural, features will be preserved and nevertheless insisting on the similarities and the convergence, with equal rights and duties for all in order to preserve the cohesion of our social fabric. [...] Integration considers that differences are a part of a common project unlike either assimilation which aims at suppressing differences, or indeed insertion which establishes that their perpetuation is a guarantee for protection.”²

¹ Hence, very few French books studying the experience of ethnic minority groups within the French society contain the word “multiculturalism” (or derived words) in their title (for exceptions, cf. Wieviorka, ed., 1996; Amselle, 1996). The same observation can be made for “ethnic minorities” or associated expressions (for an exception, cf. Arnaud, ed., 2005).

² This is a revised and more precise version of the definition presented in the first HCI report (HCI, 1993, p.8).

While renewing the assimilationist tradition, an essential feature of the French national model, the HCI struck a delicate balance between the rights and duties of “women and men who are lastingly going to live on our land”³, the acceptance of the basic values of the Republic, and the necessary transformation of French society in order to “leave some free space” for newcomers. This “integration model” sums up the long history of immigration in France and captures the essential principles of the French integration policy. Firstly, integration is an *individual* process. The State will not recognize immigrants in structured communities because such institutionalization poses a threat to the unity of the Nation. Secondly, admission as a citizen, i.e. becoming a French national, remains the pivot of the integration process. Maintenance of an open code of nationality⁴ allows for a rather sizeable admission of foreigners according to various procedures and ensures an ongoing “mixing” of populations. This is also a way of avoiding the emergence and perpetuation of “minorities” with specific legal statuses as a result of confusions between the notions of citizenship and nationality. Thirdly, the concept of integration is linked to the principle of equality in that it tries to enforce the practice of equality in social life.

Yet, despite this wording, the integration doctrine often clashes with social practices, especially institutional practices, which do not reflect these general principles. The opposition to the recognition of any structured communities which would add an intermediate layer between the State and the citizens is not present at the local level. The line between “tolerating specific cultural features” and promoting multiculturalism seems quite slim⁵. French integration policies mark a permanent quest to strike an unlikely – and unattainable, according to many observers, - balance between an active form of tolerance towards differences (including some concessions to the public expression of such differences) and the vigilant reassertion of a “principle of undifferentiation.”

This conception of integration that was formalised at the beginning of the 1990s must be put back in a longer historical context. Indeed, the debates and framings have very much changed since the recognition that immigrants were here to stay at the end of the 1970s. During that period, the belief that immigration is solidly settled in the French social landscape gradually prevails and considerably changes the framing of the issue. It coincides with the irresistible emergence of immigration in all aspects of social life. Abandoning the reserved realm of the economy and the means of production (Tripiet, 1990), the figure of the immigrant emerges in neighbourhood relations, at school, or in the collective struggles that occur after 1968. The immigrant populations move to the foreground, to the point of bringing about unease in and the rejection of the majority - the “French” - who consider themselves a threatened group. As early as in the 1970s and until today, many political discourses, including discourses produced by Presidents, Prime Ministers, mayors, – on the right and on the left – have had a strong responsibility in arousing, banalising, and legitimizing such representations, which have not been the apanage of the *Front National*. The banalisation of ethnic stereotypes for the 1980s owes much to the politicians and to the dominant media and

³ Note the use of the circumlocution that obscures rather than clarifies any appropriate term.

⁴ The degree of “openness” of the code of nationality is a matter of dispute since the granting of nationality is partially a specific attribute of the State. Although there are few refusals, especially on grounds of “lack of assimilation”, there is a reported increase in adjournments on grounds of job precariousness, which in turn has an aggravating effect on the economic instability of migrant populations. Adjournment criteria in cases of lack of professional employment have been eased at the end of 1998, in order to better take into account all “insertion efforts made by applicants”.

⁵ Indeed the HCI tries to balance the acknowledgement of the legitimacy of the ties and solidarities between ethnic groups with the warning of the danger in cultivating “long lasting community gatherings” and, even more so to any institutional recognition thereof.

mediatic intellectuals (Tévanian, 2001; Tévanian, Tissot, 2002). To give a few striking examples of that institutional production of racism (Tévanian, 2001, pp. 31-32): in 1976, the Prime Minister Jacques Chirac declares that “France should not have as many unemployed as it counts more than one million immigrants”; at the beginning of the 1980s, Georges Marchais (leader of the Communist Party) and several communist councillors oppose to the construction of foyers *for* immigrant workers in communist municipalities, in the name of the “tolerance threshold”; in 1982, the socialist Prime Minister, Pierre Mauroy, depicts immigrant workers of the car industry doing a strike as “fundamentalist⁶ agitators”; in 1984, the Prime Minister Laurent Fabius says that the Front national raises “good questions”; in 1989, the President of the Republic François Mitterrand says that “the tolerance threshold is exceeded”; in 1991, Jacques Chirac talks about “an overdose of immigrants”, and evokes “the noise and the smell” of immigrants⁷.

At the beginning of the 1980s, the mobilization of youth “of immigrant ancestry” in marches for equality (“*Marche des beurs*” of 1983) and their demand for the “right to difference” will be brutally countered by the irruption of the extreme right vote in the 1984 local elections, and the cathartic debate around the reform of the *code de la nationalité* in 1986. This spectacular reversal leaves a mark on the national research program, of which the third part, centered on “everyday racism, xenophobia and discrimination”, planned for 1987, is never launched. In the space of only two years, France shortly found itself to be “multiethnic”, and return promptly to an assimilationist position, as the leitmotif of integration was imposing itself. Thus if the 1980s have been dedicated to a short period of experiencing a sort of multiculturalism, the return of assimilation was achieved at the end of the decade.

The obsession of “communitarianism”, never defined, then emerges and is used to support a new racism. In the French debates, the notion of “communitarianism” refers to the risk of political mobilization of ethnic, racial or sexual minorities and the consequences of their recognition for the French political model. This notion is used to denounce the “balkanization” of the social fabric and to discredit the emergence of specific claims made by minorities, in particular their denunciation of discriminations and racial domination (Lévy, 2005). Through the reference to “communitarianism”, the persistence of “ethnic identities” is designed as a major threat against the values of the Republic.

All the most prominent debates occurring in the years 2000 (the obsession with the “republican model”, abhorring American and British counterexamples, accusations of an inability to assimilate, the failure of integration, rhetoric on discriminations) are already lurking, with the exception of specific cultural and religious references of the so-called Muslim population, which only emerges as the central figure of ‘otherness’ needing to be overcome at the end of the 1990s (Allievi, 2005). The omnipresence of young people of immigrant origins in the social disorders that afflict the suburbs amplifies the visibility of the ethnic mosaic, which then often serves as a causal explanation. The suburbs revive the image of an ethnic or social “ghetto” in the urban imaginary⁸.

⁶ We translate the French word “*intégrisme*” by “fundamentalism”.

⁷ This video of this discourse can be seen on http://www.dailymotion.com/video/xg96z_la-lepenisation-des-esprits-n2.

⁸ In the context of a crisis of the industrial welfare state, the notion of “ghetto” was amazingly successful at identifying those areas which expressed, with extreme forms of violence and destitution, the collapse of the French social model. The proliferation of the term in political discourse and the media was strongly denounced in the social sciences (Vieillard-Baron, 1990; Wacquant, 1992 and 2005). The use of a vague and indeterminate notion fills a central role in the symbolic management of social conflicts. It highlights the hardening of the

Since the end of the 1990s, the integrationists' hegemony has been contested by a new concern for discriminations. The anti-discrimination paradigm has taken the lead, until an integrationist backlash after 2002 and the election of Jacques Chirac against the extreme right leader Jean-Marie Le Pen. The current framing can be described as a strange mix of integration old school and new anti-discrimination European style. As the integration paradigm and the anti-discrimination paradigm can be viewed as in total contradiction, multiculturalism is today embodied in a series of debates that question the relevance and future of the "French model of integration" and raise the issue of the management of ethnic diversity.

2. Main contemporary debates on multiculturalism in France

When reviewing the main political and media debates around the management of ethnic and cultural diversity within the French society nowadays, it appears that those debates relate to four main clusters of events : Islam and *laïcité*, anti-discrimination, postcolonialism, and urban riots⁹. The so-called debate on *laïcité*, which in fact has been above all a debate on the "Muslim headscarf" and more generally on the compatibility between Islam and the republican and secular values, has certainly been the most lively those last years (it was at its peak during the period 2003-2004). Hence we will devote a whole part of this report to that debate (point 3). In the present point, we will more rapidly present the main stakes of the three other mentioned dimensions of these contemporary debates on multiculturalism in France.

2.1. The "French invention of ethnic discrimination", a challenge to the republican model

Since the mid-1990s, discrimination has become a new preoccupation of public authorities, if we accept the increasing number of reports and stances taken by the highest authorities of the State as evidence. Some observers have even talked about a "French invention of discrimination" during that period (Fassin, 2002). By placing the "principle of equality" at the heart of the French model of integration in its 1996 report, the *Conseil d'État* produced new thinking about the relationship between integration and equality. This new thinking raises the idea that illegitimate and illegal differences of treatment, and the disparities in terms of access to rights, goods and services, do not only affect foreigners, but French citizens as well on the ground of their ethnic and racial origins. Thus, the French model of integration seems to have failed, not only from the viewpoint of immigrants who remain distant from the standards and values of French society, but from that very society that continually reproduces mechanisms of discrimination based in social prejudices and ethnocentric and racist behaviours.

The increasing recognition of ethnic discriminations has triggered a large debate between social scientists, activists and policy makers on how to measure discrimination and how to name its victims. Debates around the "ethnicisation" of statistics have been

debate around two strategic issues: 1) that related to acknowledging the ethnic diversity of the population and its translation not only into the conceptualization of social forms but also into the national imaginary; 2) the use of a territorial demarcation of social inequalities, that is to say a segregating system's attempt to control, which assigns people according to their socio-economic position, or worse yet from a French point of view, according to their position within the ethnic hierarchy.

⁹ Cf. Appendix for a synthesis of these events.

particularly lively for a few years, as the idea to officialise ethnic categories, even on behalf of the fight against ethnic discrimination, is perceived as in total contradiction to the republican model and its principle of non differentiation, which makes it difficult to name the victims (Simon, 1993 ; Fassin, 2006). The statistical organisation, on one side, and the Data Protection Commission (*Commission nationale informatique et libertés*, CNIL), on the other, are still very reluctant to produce so-called ethnic statistics unless public authorities give clear requests on this issue. The debate has recently taken a new form as a newly created black association, the Representative Council of Black Associations (*Conseil représentatif des associations noires*, CRAN), asked for the construction of ethnic statistics in order to improve the fight against ethnic discriminations and asked the candidates to the presidential elections to engage in that debate¹⁰. Following this initiative, some scientists and personalities have launched a petition against the ethnicisation of statistics. The answer was a “counter-petition” which denounced that locking of the debate in the name of the republican values¹¹.

On the policy side, a debate on ‘positive discrimination’ (a French neologism for ‘affirmative action’) has developed, constantly making reference to the US model, not as it really is but as it is fantasised within the French society. “Positive discrimination” remains highly criticised. The Inner minister Nicolas Sarkozy has taken firm positions in favour of affirmative action procedures, whereas the President Jacques Chirac and his Prime minister Dominique de Villepin defend the republican way of soft anti-discrimination policy. The example of Sciences Po, with its ‘ZEP conventions’ offering special admission procedures to students from disadvantaged neighbourhoods in order to give them access to its higher education programmes, after facing strong oppositions and law suits in the name of equality of treatment, has been successful and copied by several ‘*grandes écoles*’. In addition to this, the mobilization of companies and their commitment to ethnic diversity, with the creation of a Charter for diversity (Bébéar, 2004 ; Sabeg, Méhaignerie, 2006), has brought more incentives to monitor ethnic and racial discriminations with statistics. There is also a wide debate about the representation of ethnic diversity in the media (Macé, 2006).

All these developments show an emerging recognition of what starts to be named “diversity” and “minorities” in the French debates. Nevertheless, what these debates highlight is the conflict between this emerging recognition and the persisting influence of the republican categories, values and tradition. The weight of that tradition might explain that, even if the issue of ethnic discrimination is less taboo than ten years ago (Fassin, 2002), the French society still has difficulties in representing itself as ethnically differentiated. It has even more difficulties in accepting the fact that the French society itself and its institutions, may they be private or public (school, police, hospital, social housing), has a role in the reproduction of those ethnic differences. The notion that the French society “naturally” integrates the “immigrants” remains strongly rooted, preventing the complete recognition of the institutional and structural dimensions of racism and discriminations, that remain considered as predominantly individual. From this point of view, the “French exception” does not belong to the past.

2.2. Postcolonialism

Since 2005, a growing debate has developed about colonialism, the “colonial fracture” and the debt of the French State towards the people of its former colonies, in North Africa,

¹⁰ « Statistiques ethniques : les propositions des candidats », *Le Monde*, 24 February 2007.

¹¹ Cf. “Engagement républicain contre les discriminations”, *Libération*, 23 February 2007; “Statistiques contre discriminations », *Le Monde*, 13 March 2007.

Sub Saharan Africa, and West Indies (Blanchard, Bancel, Lemaire, ed., 2005). The National polis of the history of immigration (*Cité nationale de l'histoire de l'immigration*), which will open in April 2007 in Paris, was also conceived, from the 1990s, as a project aiming at valorising immigration as constitutive of the French history and national identity. The 10 May 2001 Taubira-Delannon Act, labelling slavery and slave trade as a crime against humanity, marked a first step in this recognition and led to solemn commemorations of the abolition of slavery (10 May 1848). In that context, the vote of the 23 February 2005 Act¹² (said Mekachera Act), aiming at the recognition of the contribution of French repatriates from North Africa (*pièdes noirs*), triggered a scandal, because of its article 4 asking official history programs to give “the place that it deserves” to “the positive role played by the French presence overseas, especially in North Africa”. This article was finally retrieved after a petition of historians and a large mobilization against this rehabilitation of the colonial past (Bertrand, 2006).

In the meantime, there has been an increasing mobilization of the “victims” to ask for recognition, respect, and fight against discrimination, as shown by the creation of the movement “We are the indigenous of the republic” (*Les indigènes de la république*, January 2005) and of the Representative Council of Black Associations (*Conseil représentatif des associations noires*, CRAN), uniting some 60 associations for the defence of black people. Claims for recognition of the legacy of slavery and colonial times and their persistent consequences in the so-called “post-colonial society” are connected with the denunciation of discriminations. The idea of being more present in elections and presenting “black” candidates is also developing, with the candidacy of Christiane Taubira (Guyana) in the 2002 presidential election, since the presence of ethnic minorities remain very weak as well in local councils (Geisser, 1997) as in the Parliament. Ethnic minorities are badly represented in political parties, especially on the right but also on the left. The emergence of a “black mobilization” engendered controversies on the danger of a competition between communities and memories. More generally, there is a growing division within the antiracist movement. On one side, the traditional organisations such as SOS Racisme (product of the mobilization of the “Beurs” during the 1980s, and close to the PS) refuse any “ethnicisation” of the actors, discourses and instruments of antiracism, arguing that this would be the negation of the republican values and that this would trigger communitarian forces that could undermine the French society (Sopo, 2005). On the other side, new antiracist mobilisations such as the CRAN or the *Indigènes de la République* call for the recognition of ethnic discrimination and of their particular identities and memories (Khiari, 2005).

The debate has also had a scientific dimension, bringing the question of the relevance or necessity to introduce a “post-colonial perspective” in the French social sciences (Amiriaux, Simon, 2006). The recent publication, in French, of a companion to postcolonial studies (Lazarus, ed., 2006) and of several special issues of journals (*Contre-temps*, 2006; *Labyrinthe*, 2006; *Mouvements*, 2005, *Multitudes*, 2006) might be seen as a sign of that emerging recognition of postcolonial studies as likely to be “imported” for the analysis of the French experience.

2.3. Urban riots

The riots of November 2005 have been predominantly framed by politicians, intellectuals and the media as an ethnic or religious uprising, as the symbol of an emergent

¹² LOI n° 2005-158 du 23 février 2005 portant reconnaissance de la Nation et contribution nationale en faveur des Français rapatriés, J.O 46 du 24 Février 2005. Cf. <http://www.admi.net/jo/20050224/DEFX0300218L.html>.

communitarianism requesting a strong republican reaction. The Inner minister Nicolas Sarkozy made comments about getting rid of the ‘scum’ of the ‘cites’ and washing them with a karcher. The philosopher Alain Finkelkraut in a interview to an Israeli newspaper *Haaretz* (17 November 2005) qualified the incidents of ‘ethno-religious revolt’; H  l  ne Carr  re d’Encausse, Perpetual secretary of the Academy, saw their main cause in the ‘polygamy’ of African families. The UMP deputy Jacques Myard called for the creation of ‘disciplinary bataillons’ to curb these ‘young people, French against their will, from Arabo-African descent’ (*Lib  ration*, 29 november 2005). On the opposite to the discourses that dominated on the political scene and on the media, many studies led by social scientists (Mucchielli, Le Goaziou, ed., 2006; Lagrange, Oberti, ed., 2006; *Mouvements*, 2006; for a synthesis, Sala Pala, 2006) showed that these riots, far from expressing community claims, expressed the demand of an effective implementation of the republican principle of equality from the part of young French citizens experiencing day-to-day segregation, discrimination, racism and unemployment, as well as exclusion from the traditional political expression. The political answer given to the November 2005 riots (in particular the proclamation of the state of emergency, according to an Act dating back to the Algerian war, and more generally the amalgam between rioters and delinquents) can be considered as the sign of a significant shift towards a criminalisation of social movements and a violent stigmatisation of ethnic minority groups in France. It shows how the recognition of ethnic discrimination and racism remains fragile as the mobilisation of young people (mostly) stemming from immigrant parents is interpreted in terms of an expression of communitarianism and of a deviant subculture of the *banlieues*.

3. The 2004 law on *laicit  * and the “affair of the Muslim headscarf”

3.1. *The construction of a public issue*

Debates around the issue of religious symbols at school have been going on in France for several years. The debate gained in intensity in 2003 and thus became once again “an affair” (Lorcerie, ed., 2005 ; T  vanian, 2005). The construction of the “Muslim headscarf” as a public issue in France started in 1989¹³. Previously, the theme of Islam had been little politicised in the French society. During the 1970s, demands for the creation of cult places led to a first politicisation of Islam in France. During the 1980s, the issue of immigration and “integration” was much more focused on the “Beur movement” and on the demand for recognition and “right to difference” expressed by the youth stemming from the immigration from Maghreb (Bouamama, 1994 ; Jazouli, 1992).

In that context, the first “affair of the Muslim headscarf” was born in 1989 when the school director of a secondary school in Creil (Oise, near Paris) took the decision to exclude three young girls because he considered that their Muslim headscarf undermined the principle of *laicit  *. The minister of Education Lionel Jospin asked the *Conseil d’Etat* (highest administrative court in France) to express its opinion on the legality of this exclusion. On 27 November 1989, the *Conseil d’Etat* stated that « The wearing of the headscarf is not contradictory to the values of the secular and republican school ». It thus stated a liberal conception of *laicit  *, considering that the 1905 law on the separation of the Churches and of the State (usually called “law on *laicit  *”) above all protects freedom of conscience and freedom of expression. The pupils can thus make use of their freedom of conscience. Only

¹³ For a more detailed chronology of “the affair of the headscarf”, cf. Lorcerie, ed., 2005, pp. 259-263.

proselytism and the disturbance of school activities can lead to an exclusion. School directors were thus invited to assess the situations on a case-by-case basis.

Five years later, in September 1994, the polemics came back through a circular that the minister of Education, François Bayrou, addressed to school directors. In that circular, the Muslim headscarf was defined as “a conspicuous sign in itself” (“*un signe ostentatoire en soi*”), which would thus display a proselyte attitude, contrary to the cross or the kippa. The “Bayrou circular”, as it is usually called, thus invited public school directors to include in their school’s internal statutes a provision forbidding « conspicuous signs ». But, asked again to give its opinion after the exclusion of eighteen pupils in a secondary school in Strasbourg in October 1994, the *Conseil d’Etat* confirmed, on 10 July 1995, that the headscarf was not “a conspicuous sign in itself”. It concluded that there could be neither a general interdiction nor a systematic exclusion of girls wearing the Muslim headscarf. It stated again that no sign was to be considered as “conspicuous” by nature and, referring to the 1905 law, it stated that a religious sign could not be in itself contrary to *laïcité*. Hence it maintained the position that it had defended in 1989.

Ten years later, the period 2003-2004 was marked by an intense debate on the issue of the headscarf, widely covered in the media, in relation to the work of the Committee of reflection on the implementation of the principle of *laïcité* in the Republic that was presided by Bernard Stasi. The context was very different from the one of 1989 and 1994. It was marked by increasing debates around Islam and increasing amalgams between Islam, “communautarism” and “fundamentalism”. The representation of Islam as a threat on the Republic, on the principle of *laïcité*, and on the national identity, had grown up during the 1990s. The context was marked, at the international level, by the post-9/11 political and intellectual climate of growing hostility to Islam and, at the national level, by the rise of a law and order political discourse.

The issue of the headscarf came back at the front of the political scene through a discourse of the Inner minister Nicolas Sarkozy, on 19 April 2003, at the occasion of the 20th annual congress of the UOIF. A few days before (on 6 and 13 April 2003), the members of the CFCM had been elected for the first time, after a consultative process largely led by Nicolas Sarkozy in order to institutionalise an official representation of “the Islam of France”. The UOIF had obtained good results at those elections. Willing to avoid being considered as too close to the UOIF, which is often presented as an “fundamentalist” organisation in the French media, Nicolas Sarkozy made during this congress a very symbolic declaration about the interdiction to wear anything on the head on identity photos. The question “for or against a law on the headscarf?” came back through that door. Different politicians, on the right and on the left, declared themselves to be in favour of a law. In June 2003, the president of the National Assembly, Jean-Louis Debré, set up a parliamentary mission of information “on the issue of religious signs in school”. On 3 July 2003, the President of the Republic Jacques Chirac set up the “Commission of reflection on the implementation of the principle of *laïcité* in the Republic”, known as the “Stasi Commission”¹⁴. As the Stasi Commission started its

¹⁴ Despite the name given to that Commission, its aim was more particularly to “solve the issue of the headscarf”, as revealed Jacques Chirac’s discourse on 3 July 2003 : “The debate particularly focused on the wearing of the headscarf at school. The media have echoed the controversies that it has triggered. Those controversies rekindle yesterday’s quarrels on the place of the religious within the society, at the same time as they rise issues amongst the most fundamental for today and tomorrow: the equality of children of both sexes in their educational path, but also, through the place reserved to the Muslim faith, the integration and the identity of the populations stemming from immigration.” Discourse of Jacques Chirac at the occasion of the creation of the

public auditions in September 2003, the beginning of the school year was marked by the intense media coverage of the story of Alma and Lila, two sisters who were excluded from their secondary school in Aubervilliers because they refused to take off their headscarf¹⁵. During the autumn 2003, the headscarf was extremely present in the media (Lorcerie, 2005; Tévanian, 2005). Jacques Chirac, the UMP, the PS, took position in favour of a law.

3.2. From the Stasi Commission on laïcité to the law prohibiting the Muslim headscarf in public schools

The Commission set up by Jacques Chirac was headed by Bernard Stasi, Ombudsman of the Republic from 1998 to 2004 (and member of the centre party UDF). It was made up of twenty members with different backgrounds : teachers, scientists, specialists in law, politicians, school directors¹⁶. During fast three months, this Commission audited about 140 persons¹⁷ representing institutions of the civil society, political parties, representatives of religious institutions. The auditions were public for about 100 of them. Some observers have criticised the working process of the Commission, noting for instance that only one half day had been devoted to the audition of pupils themselves (Tévanian, 2005). The relevance of some auditions was contested, such as the one of Chahdortt Djavann, the author of *Bas les voiles!*, well known for her stance against the Muslim headscarf. Some observers (Houziaux, ed., 2004, p. 47) underlined that it was irrelevant to make as if the experience of that Iranian woman who was forced to wear the headscarf when she was a young girl in Iran was similar to the experience of (mostly) French young girls wearing the headscarf, often according to their own choice.

The Commission gave its conclusions on 11 December 2003. Its final report¹⁸ promoted a radical stance, as it proposed the adoption of a law forbidding religious signs in public schools. More precisely, the Commission proposed to forbid the wearing of the headscarf in public schools, considering that the headscarf in itself was a conspicuous religious sign. Therefore, the Commission's proposal made a clear distinction between the Muslim headscarf (an also the kippa, even if it triggered much less debates), which should be totally forbidden in public schools, and other religious signs, that should be allowed, except if

Commission of reflection on the application of the principle of *laïcité*, pronounced at the Elysée, 3 July 2003 (www.elysee.fr).

¹⁵ « Lila et Alma ne retourneront plus au lycée Henri-Wallon », *Le Monde*, 12 October 2003 ; “Alma et Lila à découvert”, *Le Monde*, 15 February 2004. The sisters wrote a book entitled *Des filles comme les autres. Au-delà du foulard*, Paris, La Découverte, 2004.

¹⁶ The members of the Stasi Commission were : Bernard Stasi, former minister, Ombudsman of the Republic; Mohammed Arkoun, professor in history of islamic thought (University of Paris III); Jean Baubérot, professor in history and sociology of *laïcité* (EHESS, Paris); Hanifa Cherifi, mediator at the Ministry of national education; Jacqueline Costa-Lascoux, researcher in law (CNRS) ; Régis Debray, professor; Michel Delebarre, former minister, member of Parliament, mayor of Dunkerque; Nicole Guedj, lawyer; Ghislaine Hudson, school director (secondary school of Dammarie-les-Lys); Gilles Kepel, professor (Sciences-Po Paris); Marceau Long, honorary vice president of the *Conseil d'Etat*; Nelly Olin, senator, mayor of Garges-les-Gonesse; Henri Pena-Ruiz, philosopher, professor (Sciences-Po Paris); Gaye Petek, president of the association ELELE (Migrations and cultures of Turkey); Maurice Quenet, rector of the Academy of Paris, chancellor of the universities of Paris ; René Rémond, professor in political science; Raymond Soubie, president of Altédia (consultance in management) ; Alain Touraine, sociologist (EHESS); Patrick Weil, researcher in history (CNRS); and Rémy Schwartz, member of the *Conseil d'Etat*, general rapporteur of the Commission.

¹⁷ The list of those auditions is enclosed in the Commission's final report (2003, pp. 70-77).

¹⁸ Commission de réflexion sur l'application du principe de *laïcité* dans la République (2003), *Rapport au Président de la République*, remis le 11 décembre 2003, Paris, Présidence de la République, 78 p. This report is on line on <http://www.ladocumentationfrancaise.fr/rapports-publics/034000725/index.shtml>.

they are too conspicuous. Thus only a “big cross” should be forbidden, whereas all headscarves should be.

The Commission’s report justified that stance in the following way. According to the Commission (2003, p. 57), a majority of teachers and school directors were in favour of a law forbidding the wearing of religious signs in schools : “The Commission has been particularly sensitive to their disarray [...] the demand which is expressed is the one of a law forbidding any visible sign, so that the school director does not face alone the issue of knowing whether he/she faces a conspicuous or not conspicuous sign” (2003, pp. 57-58). The report stated that many politicians and local associations also expressed the necessity to relay the “call for help” of very numerous young girls and women stemming from immigration living in *cités*. The Commission argued that these young girls needed to be protected and that, in that perspective, strong signals had to be directed towards “islamist groups” (p. 58). It came to the following conclusion :

“The Commission, after hearing the positions of the different actors, considers that today the issue is not any more freedom of conscience, but public order. The context has changed in a few years. The tensions and oppositions in schools around religious questions have become too frequent. The normal unfolding of courses cannot be guaranteed any more. Pressures are exerted on minor young girls, in order to force them to wear religious signs. Family and social environment sometimes impose to them choices that are not theirs. The Republic cannot stay deaf to the distress cry of these young girls. The space of the school must stay for them a space of freedom and emancipation.

Therefore the Commission proposes to insert in a text of law on *laïcité* the following provision: “In respect of freedom of conscience and of the proper character of private schools under contract, are forbidden in primary and secondary schools the clothes and signs displaying a religious or political belonging. Any sanction is proportionate and taken after the pupil has been invited to conform to his/her obligations”.

This provision would be inseparable from the exposition of the following grounds : “The forbidden religious clothes and signs are the conspicuous [*ostensibles*] signs, such as big cross, a headscarf or a kippa. Discreet signs such as medals, small crosses, stars of David, Fatma’s hands, or small Corans, are not considered as signs displaying a religious belonging”.” (2003, p. 58-59).

This point of the report was adopted at the unanimity except one member of the Stasi Commission, Jean Baubérot, who expressed his opposition to such a law. His proposal consisted of adopting a law corresponding to the traditional position defended by the *Conseil d’Etat* (interdiction of religious signs, including the Muslim headscarf, only if the wearing of the sign is considered as conspicuous, according to a case-by-case appreciation)¹⁹.

Although the issue of the Muslim headscarf at school focused the political and media attention, the report of the Stasi Commission ended by a whole series of proposals (“Conclusion”, pp. 66-69) divided in three points. The first one, entitled “A reminder of the obligations to which civil services must submit”, notably proposed more strength in the fight against racism and anti-Semitism, especially at school; the strict implementation of the respect of the school’s obligations and of the curricula’s contents; the recognition of *laïcité* as a major theme of civic instruction; the better teaching of religious facts; the accommodation of food in public canteens; and the adoption of a “Charter of *laïcité*” in public services.

Under the title “The suppression of discriminatory public practices”, the second point mainly promoted: the destruction of urban ghettos; the use of common sport infrastructures in order to favour social mix; the inclusion of a teaching of Islam amongst the (today

¹⁹ Jean Baubérot explains his position in (Houziaux, ed., 2004, pp. 49-78). In that book, the reader can also find the point of view of another member of the Stasi Commission, Jacqueline Costa-Lascoux, who was in favour of the proposal. That book also contains contributions by Alain Houziaux and Dounia Bouzar.

compulsory) religious teachings in public schools in Alsace-Moselle; the suppression of the compulsory character of religious courses in Alsace-Moselle; the development of language courses, especially Arab, in public schools; a better integration of the history of slavery, colonisation, decolonisation and immigration in the history curricula; and the setting up of an authority for the fight against discrimination.

The third point, entitled “The adoption of a law on *laïcité*”, proposed the adoption of a law that would have two dimensions. Firstly, it should precise the working rules of civil services and enterprises regarding the implementation of *laïcité* (“the working of public services”) : affirmation of the strict respect of the principle of neutrality by civil servants; affirmation that the users of civil services must conform to the demands of the working of those services; interdiction of “conspicuous” religious signs, “such as a big cross, a headscarf or a kippa”, in public schools; inscription, in the law on hospital, of the users’ obligation not to impugn hospital staff or hygiene rules; recognition, in the law, of the possibility for enterprises to integrate, in their internal regulation, provisions on clothes and wearing of religious signs, “for imperatives linked to security, to the contact with customers or to internal social peace” (p. 68). Secondly, the law on *laïcité* should guarantee the spiritual diversity of the country (“the respect of spiritual diversity”) : recognition of Kippour and Aïd-El-Kébir as holidays in all public schools; possibility for workers in enterprises to chose a day of religious holiday; creation of a national school for Islamic studies.

The parliamentary mission of information on the issue of religious signs at school, created in May 2003, came to the same conclusion regarding the headscarf at school. Its final report, approved on 4 December 2003, promoted the introduction of a clear legislative provision stating the principle of the interdiction of any religious and political sign in schools²⁰.

On 17 December 2003, Jacques Chirac announced the beginning of a legislative process. This process led to the law of the 15 March 2004, “law regulating, in application of the principle of *laïcité*, the wearing of signs or clothes displaying a religious belonging in public primary, secondary and high schools”²¹. This very brief law takes back the words used by the President of the Republic in his discourse : “In public primary, secondary and high schools, the wearing of signs or clothes through which the pupils conspicuously display a religious belonging is forbidden. The internal regulation recalls that the implementation of a disciplinary procedure is preceded by a dialogue with the pupil”. The law came in force in September 2004. An administrative instruction of 18 May 2004 specified its conditions of application. It was published on 22 May 2004²². It states that “the prohibited signs and clothes are those by which, whatever they may be called, one is immediately identified by his or her religious beliefs, such as the Muslim headscarf, the kippa or a cross of manifestly excessive dimension”. Hence it adopted the position promoted by the Stasi commission.

²⁰ Cf. <http://www.assemblee-nationale.fr/12/dossiers/laicite.asp>.

²¹ LOI n° 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics. J.O n° 65 du 17 mars 2004 page 5190. Cf. <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=MENX0400001L> (20 March 2007).

²² *Circulaire relative à la mise en oeuvre de la loi n° 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics, (18.05.2004) (JORF n°118, 22 May 2004 p. 9033).* www.education.gouv.fr/bo/2004/21/MENG0401138C.htm (20 March 2007).

In 2004, the *Conseil d'Etat* (2004) devoted a large part of its annual report to the issue of *laïcité*. It did not defend the law. It recalled the traditionally liberal orientation of the law on *laïcité* in France. It championed a pragmatic and liberal interpretation of the 1905 law.

An evaluation of the enforcement of the 2004 law was done in 2005²³. In June 2005, Hanifa Chérifi, general inspector of National Education and former member of the Stasi Commission, submitted to Gilles de Robien, minister of National Education, the first evaluation report on the application of the law²⁴. This report draws a positive assessment of the law²⁵: for the school year September 2004-June 2005, the Ministry of National Education listed 639 religious signs (2 large crosses, 11 Sikh turbans, 626 Islamic headscarves), that is to say, 50 per cent fewer than the previous year. Most of these religious signs (82 per cent) were listed in five educational districts where the immigrant population is very high (Strasbourg – 208, Lille – 118, Créteil – 70, Montpellier – 38 and Lyon 32). The majority of the pupils (496) agreed to withdraw their religious sign. Among the 143 refusals, 47 led to final exclusions from the school by a decision of the disciplinary board (44 for the wearing of Islamic headscarves, 3 for Sikh turbans) and 96 pupils voluntarily decided to leave the public school (they are now registered in private schools or follow courses by correspondence). Nevertheless, 28 excluded pupils appealed to the courts. In July 2005, the first twelve judgements given confirmed the decisions of expulsion. The report asserts that “on the basis of information directly received from the heads of establishments or transmitted by academic correspondents”, a number of girls and parents felt that “the application of the law was a relief”.

This positive assessment of the law is disputed by “Une école pour tou-te-s” (A school for everybody), a gathering of several associations, amongst which the Centre of Studies and Initiatives for International Solidarity (Centre d'études et d'initiatives de solidarité internationale, Cedetim)²⁶. According to this group, it is necessary to add, to the official figures of exclusions and withdrawals, the “quiet exclusions”: “These invisible victims [...] simply did not present themselves at school in September, they are not able to plan to remove the headscarf and do not wish to be subjected to the humiliating procedure of the disciplinary board”.

In a report published in March 2005²⁷, the Committee against Islamophobia in France (*Comité contre l'islamophobie en France*, CCIF) also denounced the harmful effects of the law for the concerned girls: abandoning of schooling, schooling in private schools, schooling in schools abroad. The report lists all the cases of exclusion and includes testimonies of several pupils. It also denounced an abusive and illegal extension of the application of the law to the users of the public services and to employees in general : it points a whole series of

²³ For the developments of the next three paragraphs, we rely on RAXEN (2005), *Combating ethnic and racial discrimination and promoting equality. Trends and developments 2000-2005*, Special study, 29 May 2005, CEDRA, French NFP, pp. 58-60.

²⁴ The implementation of the law was evaluated and led to a report published in 2005 : cf. Ministère de l'Education nationale, de l'enseignement supérieur et de la recherche (2005), *Application de la loi du 15 mars 2004 sur le port des signes religieux ostensibles dans les établissements d'enseignement publics* (Rapporteuse Hanifa Chérifi), Paris, Ministère de l'Education nationale. Cf. <http://www.ladocumentationfrancaise.fr/rapports-publics/064000177/index.shtml> (20 March 2007).

²⁵ Cf. “Un rapport dresse un bilan positif de la loi sur le voile à l'école”, *Le Monde*, 27 August 2005 ; « Les signes religieux ostensibles ont pratiquement disparu des écoles », *Le Monde*, 30 September 2005.

²⁶ Collectif Ecole pour toutes et tous, « Loi anti-foulard : non, le bilan n'est pas bon ! », published on 27 September 2005. Cf. http://toutesegaux.free.fr/article.php3?id_article=230 (20 March 2007).

²⁷ CCIF (2005), *Le bilan de la loi du 15 mars 2004 et de ses effets pervers*, 34 p. Cf. <http://www.oumma.com/IMG/pdf/CCIF- Bilan loi du 15 mars et effets pervers.pdf> (20 March 2007).

drifts in the public sector (universities, schools, but also municipal councils and state administration (*prefectures*), as well as in the private sector (in banks, driving schools, enterprises and leisure).

If the law of 15 March 2004 finally only dealt with school, the issue of *laïcité* in other public services, hospitals in particular²⁸, stays high on the political and media agenda. On 29 January 2007, following one of the recommendations of the Stasi Commission, the High Council for Integration (*Haut Conseil à l'intégration*, HCI) gave the Prime Minister a project for a “Charter of *laïcité* in public services”²⁹. This project was the conclusion of about 40 auditions and 10 written answers. As a presentation of the project, the HCI advances that, “after the 2004 law that has largely pacified school, the attacks to the principle of *laïcité* in other public services make an appropriate answer necessary (unequal according to the services, the attacks to *laïcité* are nonetheless all unacceptable by principle)”³⁰.

3.3. Positions and arguments

How is it possible to explain the adoption of this law in 2004 ? This law can be considered as the result of an intense process of politisation and mediatisation of the “Muslim headscarf” (Lorcerie, 2005 ; Tévanian, 2005). It did not stem from a “social demand” but from the political sphere itself, strongly relayed by the media. In his book on the “mediatic veil”, Pierre Tévanian (2005) comes back on the role of the media and of the political scene in the construction of the affair and in the production of a large consent in favour of a law in the French “public opinion”. He shows that what has been constructed as “the issue of the Muslim headscarf” was far from being a major preoccupation for most of the pupils and teachers before the affair started invading the media and political debates. Actors of the political and media sphere imposed this question to the French “public opinion”. A great number of articles and TV programmes or debates were devoted to the affair during the year 2003³¹, and most of the dominant media took position in favour of a law prohibiting the headscarf in public schools. The new stance adopted by *Libération* was particularly spectacular : whereas previously (in 1989 and in 1994) the newspaper was clearly against a law, in 2003-2004 it was the most engaged of the daily newspapers in favour of a law and gave much scope in its pages to the expression of the prohibitionist stance (cf. Table 1). The very clear position of *Charlie Hebdo*, a post-68 satiric weekly newspaper, for the interdiction of the headscarf, was also noticeable. *Le Monde* was the only of the dominant media not to support the prohibition of the headscarf. According to Pierre Tévanian, “Everything indicates [...] that a political choice is at the origin of the “affair”, that the big media have relayed the political initiative, and that the “opinion” only followed” (2005, p. 31). The proportion of the public opinion in favour of the prohibition increased at the same time as the “media noise” in favour of the prohibition (cf. Table 2). In the dominant media, the distribution of the time for expression was sharply in favour of the actors supporting the prohibition of the headscarf.

²⁸ « Hôpital : Laïcité et intégrisme s'affrontent », *Le Monde*, 28-29 January 2007.

²⁹ Cf. http://www.hci.gouv.fr/IMG/pdf/AVIS_Charte_Laicite.pdf (20 March 2007).

³⁰ Cf. http://www.hci.gouv.fr/article.php3?id_article=99 (20 March 2007).

³¹ During the year 2003, *Le Monde*, *Aujourd'hui en France*, *Le Figaro* and *Libération* devoted more than 100 front pages together to the issue of *laïcité* and the headscarf ; 1284 articles were published in the three bigger daily newspaper (*Le Monde*, *Libération*, *Le Figaro*), i.e. more than one article per day and per newspaper in average.

Table 1. Position defended in opinion forums devoted to the “issue of the headscarf” published in *Le Monde* and *Libération* between April 2003 and April 2004 (in %)

	“Rebounds” (<i>Libération</i>)	“Horizon-Debates” (<i>Le Monde</i>)	Together (<i>Le Monde</i> + <i>Libération</i>)
Clearly prohibitionist position	51	39	46
Clearly anti-prohibitionist position	31	49	38
No clear position	18	12	16
Total	100	100	100
Differential prohibitionist/anti-prohibitionist position	+20	-10	+8

Source : Tévanian (2005, p. 40).

Corpus : 114 articles (65 in *Libération*, 49 in *Le Monde*)

Table 2. Results of opinion polls. Question asked : Are you in favour of the interdiction of religious signs in school ? (in %)

	April 2003*	October 2003	November 2003	Beginning of December 2003	Half December 2003	September 2004
Total in favour	49	55	53	57	69	76
Absolutely in favour	27	25	29	34	32	-
Rather in favour	22	30	24	23	37	-
Total not in favour	45	40	42	41	29	20
Rather opposed	24	23	18	18	15	-
Absolutely opposed	21	17	24	23	14	-
No opinion expressed	6	5	5	2	2	4
Differential in favour-not in favour	+4	+15	+11	+16	+40	+56
Number of press advice (AFP) ³² devoted to the headscarf	29	61	98	95	132	922
Number of articles in the national daily press ³³	24	145	295	304	115	84

Source : Tévanian (2005, p. 33). The data are drawn from different opinion polls.

* For April 2003, the question asked was rather different as it mentioned the interdiction of the headscarf and not of religious signs in general.

³² Agence France Presse.

³³ Source : www.pressedd.com.

Behind the veil of the media, what was the reality of the mobilisations and of the cleavages ? Within the actors that got mobilised in favour of the prohibition of the headscarf, one can identify several groups : the UMP, the PS and its “satellites” (especially SOS Racisme and Ni Putes Ni Soumises), actors around the Union of secularist families (Union des familles laïques, UFAL), some extreme left movements (such as Lutte ouvrière), some feminist groups, that benefited from a large media coverage (Prochoix, La Ligue du droit des femmes, SOS Sexisme), and individuals belonging to diverse organisations that did not clearly take a position (such as ATTAC or syndicates of teachers). The actors who were the most present in the media were members of the PS, the UMP, and figures of the emancipated Muslim woman, such as Chahdortt Djavann or Fadela Amara, leader of Ni Putes Ni Soumises. The opponents to the prohibition gathered around Une école pour tou-te-s/Contre les lois d’exclusion from December 2003. This group mainly gathered individuals belonging (or close) to different left movements: ecologists, extreme left, syndicates (CGT, SUD), associations (Cédétim, MRAP), feminist movements (Femmes publiques, Femmes plurielles, Les Blédardes, Collectif des féministes pour l’égalité), and Muslim associations seen as close to Tariq Ramadan (Collectif des musulmans de France and Participation et spiritualité musulmane).

Hence many actors and organisations defended the anti-prohibitionist position : organisations fighting for the human rights (LDH), *laïcité* (*Ligue de l’enseignement*), antiracism (MRAP), and many feminist intellectuals (Christine Delphy, Françoise Gaspard). And yet, in the media, these actors have been fast invisible. Analysing the 15 main TV debates devoted to the “headscarf” and to *laïcité* between April 2003 and September 2004, P. Tévanian (2005, pp. 51-55) shows that the anti-prohibitionists represented only 37% of all guests, against 55% for prohibitionists and 8% guests displaying no clear position. The teachers, pupils, parents, organisations fighting for *laïcité* and feminists represented only 10% of the guests defending the anti-prohibitionist position. As to the anti-prohibitionist stance, it was mainly represented by “religious” actors (cf. Table 3): Tariq Ramadan, women wearing the headscarf, and religious representatives, made up for 66% of the anti-prohibitionist guests. 36% of the anti-prohibitionist guests were men with a Muslim reference. On the prohibitionist side, politicians, journalists, and writers made up for 74% of the guests.

Table 3. Sexual identity and relation to Islam of the guests in TV debates on the “headscarf” (in %)

	Prohibitionist guests	Anti-prohibitionist guests	All guests
Men displaying a Muslim reference	1,5	36	14
Men with Maghreb or Middle-East origin displaying no Muslim reference	13	7	10
Other men	49	29	42
Muslim women wearing the headscarf	0	19	7
Women with Maghreb or Middle-East origin displaying no Muslim reference	21,5	4,5	16
Other women	15	4,5	11
Total	100	100	100

Source : Tévanian (2005, p. 53).

Finally, these TV programmes tended to present two types of couples : an anti-prohibitionist couple, formed by the clearly Muslim man and the veiled woman, and a prohibitionist couple, formed by the woman of Arab or Eastern origin but displaying no Muslim reference and the French man with no Arab or Eastern origin. The coincidence is striking between these two couples resulting from the choices of TV programmers and the stereotypes regarding the Muslims (obscurantist), the emancipated “*beurette*” (depicted as a heroine or a martyr) and the “white man” (described as the emancipative, enlightened charming prince) (Guénif-Souilamas, Macé, 2004). Overwhelmingly opposing the “European” man to the Muslim-Arab man (such as during the very emblematic confrontation between Nicolas Sarkozy and Tariq Ramadan in the programme “100 minutes to convince” on 14 October 2003), these debates occulted the existence of many anti-prohibitionist actors amongst the non Muslim and non Arab organisations and individuals, but also the fact that the “Muslim community” was divided on the issue of the “headscarf” (Brouard, Tiberj, 2005, p. 43). The mediatic filter thus contributed to reducing the debate to a supposed and simplistic “clash of civilisations” between the enlightened, universalist, Western world and the backward, dangerous, oppressing Muslim culture.

Finally, the debates “for or against the headscarf” have been an opportunity to develop many amalgams and false ideas on the signification of the wearing of the headscarf by young girls today in France. Many sociological studies have shown the complexity and the multiplicity of the “significations of the headscarf” within the French context (Bouzar, Kada, 2003; Gaspard, Khosrokhavar, 1995; Tersigni, 2005; Venel, 1999). They have underlined that the headscarf could not be reduced to a sign of the oppression of women in the “Muslim culture”, imposed by “fundamentalists”. And yet a great part of the arguments advanced in favour of the prohibition was rooted in the idea that the prohibition of the headscarf was necessary to “save” the young girls from the “Muslim men”. In that regard, the debate on *laïcité* is not separable from a number of rising amalgams indicating the rise of an islamophobia that does not fear anymore to express itself (Geisser, 2003) and that presents itself as progressist, feminist and promoting the emancipation of Muslim girls (Bouamama, 2004; Guénif-Souilamas, Macé, 2004; *Nouvelles questions féministes*, 2006). The French young girls wearing the headscarf were finally the “big absent” of the debates on *laïcité*, which led to a law that is clearly discriminatory.

4. The Danish cartoons : the French affair

4.1. To publish or not to publish : the French media facing the dilemma of the Danish cartoons

The French « affair » of the Danish cartoons really started four months after the publication of the cartoons in the Danish newspaper *Jyllands-Posten* on 30 September 2005. On 1 February 2006, *France Soir*, a right wing daily newspaper, publishes the twelve Danish cartoons. The front page is entitled “Yes, we have the right to caricature God”. *France Soir* states to reproduce the caricatures on behalf of the freedom of expression. In his editorial, Serge Faubert, the editor, states that “in the incriminated cartoons, there is not the least racist intention, the least will to denigrate a community in itself” ; “it is not because the Coran forbids the representation of Mahomet that a non Muslim must submit to that”.



France Soir, front page, 1 February 2006³⁴

Title : “Yes, we have the right to caricature God”.

Cartoon : “Don’t grieve, Mahomet... *all of us have been caricatured here*”

This issue of *France Soir* was seized by the Moroccan and Tunisian governments and was not to be found in Alger. The president and director of publication of *France Soir*, Jacques Lefranc, was immediately dismissed by the French-Egyptian businessman Raymond Lakah, the owner of *France Soir*. In a communiqué, Lakah stated that he decided to dismiss Jacques Lefranc as a strong sign of respect of the beliefs and intimate faith of each individual” and that he presented his “regrets to the Muslim community and to all persons that were chocked or indignant by this publication”.

The next day, on 2 February 2006, *France Soir* defended the right to “jest, criticize or laugh at one and all”. The front page was entitled “Help, Voltaire, they got mad!”. The editorial asked that question : “Islam forbids to its faithful any representation of the Prophet. Legitimately, some Muslims might have felt knocked in their convictions. The question that arises is the following : are all the non Muslims obliged to conform to that prohibition ?” The editorial stated further that *France Soir* did not will to provoke but intended to use freedom of expression. On 5 February 2006, several thousands of persons demonstrated in Paris against the publication of the cartoons by *France Soir* (this demonstration had not been authorised by the prefecture). On 6 February, the newspaper’s buildings had to be evacuated after an anonymous bomb alert.

³⁴Source :

<http://archquo.nouvelobs.com/cgi/articles?ad=medias/20060202.OBS4869.html&host=http://permanent.nouvelobs.com/>
(18/3/2007).



France Soir, front page, 2 February 2006 : « Help, Voltaire, they all got mad ! »³⁵

The “French affair of the Danish cartoons” took a new dimension when, on 8 February, the weekly satiric newspaper *Charlie Hebdo* issued a “special edition” about the affair of the Mahomet cartoons in which it devoted eleven of its sixteen pages to the “affair”. It reproduced the twelve Danish cartoons in small format in its inner pages. The newspaper stated that it issued those cartoons “by solidarity and by principle”. The front page, under the title “Mahomet outflanked by the fundamentalists”, showed a cartoon drawn by one of the newspaper’s drawers, Cabu. On that cartoon, one could see Mahomet taking his head in his hands and saying “It is hard to be loved by fools”. Within the newspaper, besides the reproduction of the Danish cartoons, a series of cartoons drawn by *Charlie Hebdo*’s drawers was published, showing Mahomet but also representatives of other religions than Islam. The newspaper also contained articles of analysis and debate. The position of the newspaper was justified with these words : “Charlie attempts to analyse the polemics and its consequences. The aim is to show that freedom of expression must be stronger than intimidation”. In the same edition, *Charlie Hebdo* also published “The Manifest of freedoms”, signed by a non religious organisation gathering persons “of Muslim culture”, taking position in favour of freedom of expression through its spokesman Tewfik Allal³⁶. With this special edition, *Charlie Hebdo* increased its sellings threefold, selling 400 000 copies instead of an average of 140 000 copies³⁷.

³⁵ Source : <http://www.lepolitique.com/actu/mahomet/france-s.htm> (19/3/2007).

³⁶ A few weeks later, *Le Monde* devoted an article to Brigitte and Tewfik Allal. Cf. « Brigitte et Tewfik Allal à contre-Coran », *Le Monde*, 28 February 2006.

³⁷ Cf.

<http://archquo.nouvelobs.com/cgi/articles?ad=medias/20060208.OBS5568.html&host=http://permanent.nouvelobs.com/> (18/3/2007)



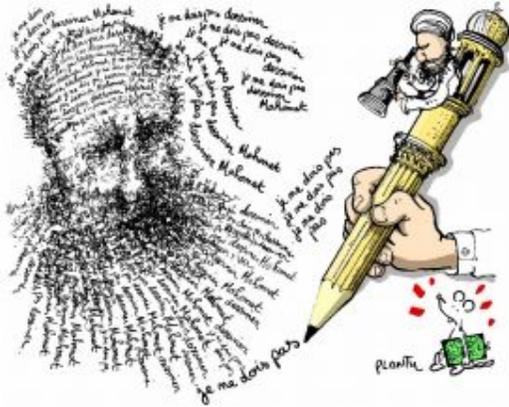
Charlie Hebdo, front page, 8 February 2006
Special issue, “Mahomet outflanked by the fundamentalists” : “It is hard to be loved by fools...”³⁸

A conservatory measure of seizure of that edition of 8 February was asked by some Muslim organisations, amongst which the CFCM, which considered the issue of the cartoons as a « racial and religious abuse ». But such a measure was refused on 7 February 2006. The affair was not judged on the substance but was nonsuited for formal default. According to the radio France Inter (7 February 2006), the French government had tried to influence the judges by advising them to accept the complaints of the Muslim associations and of the antiracist organisation MRAP. Two days before the publication, Philippe Val, the editor of *Charlie Hebdo*, had been appointed by the Prime Minister. The cabinet’s director of the Prime Minister Dominique de Villepin asked him to renounce to his project, but the newspaper was already under press³⁹.

The other main French daily and weekly newspapers made different choices regarding the Danish cartoons. On 3 February 2006, the main French reference newspaper *Le Monde* published two of the Danish cartoons **. The front page of the edition was entitled “Islam : the caricatures of the discord” and showed a cartoon drawn by *Le Monde*’s most famous drawer, Plantu. That cartoon represented the caricaturist himself, watched over by an imam, writing many times “I will not draw Mahomet” as a pupil that got a punishment ; at the same time, the sentences that he writes draw Mahomet’s face. The edition also contained an interview of eight French caricaturists, amongst which Plantu, who denounced the pressure exerted onto press drawers and humorists when religion was at stake.

³⁸Source :
<http://archquo.nouvelobs.com/cgi/articles?ad=medias/20060208.OBS5568.html&host=http://permanent.nouvelobs.com/>
(18/3/2007)

³⁹ Cf. « Charlie face à la justice des hommes », *Libération*, 7 February 2007.



**Le Monde, front page entitled « Islam : the caricatures of the discord », 3 February 2006
Caricature by Plantu: « I must not draw Mahomet, I must not draw Mahomet... »⁴⁰**

On 2 February 2006, in an article entitled “The position of *Libération*”, the left-wing newspaper *Libération* stated that it did not publish the cartoons, not by principle, but because, after a long debate between the journalists within the newspaper, the cartoons were deemed feeble. Nevertheless, on 3 February 2006, the newspaper published two of the Danish cartoons, precisating that “Far from taking those cartoons to our own account, we want to explain and understand”. The newspaper decided to show those cartoons as they had the value of “documents”, following long debates within the redaction. It stated that the choice to publish some of the cartoons responded to the desire to understand and reaffirm a principle and values which seemed to be hurt through a disproportionate crisis. It devoted a long file to the affair. However, it did not publish the most controversial of the cartoons, *i.e.* the one showing Mahomet with a turban having the form of a bomb. It considered that this cartoon made an intolerable amalgam between Muslims and terrorists.



Libération, front page, 3 February 2006 : « The satanic cartoons »⁴¹

On 3 February 2006, the right-wing newspaper *Le Figaro* published one of the less polemic of the Danish cartoons. In his editorial “Mahomet. An affair of conscience”, Yves Thérard wrote that self-censorship could happen to be necessary because “what the law authorizes, the conscience sometimes forbids” and “one can also make a bad use of the freedom of press”. A few days later, *Le Figaro*

⁴⁰ Source : http://abonnes.lemonde.fr/web/imprimer_element/0,40-0@2-3208,50-737386,0.html (18/3/2007).

⁴¹ Source : <http://monde.en.question.free.fr/index.php/2006/02/04/109-revue-de-presse-la-caricature-de-la-liberte-de-la-presse> (18/3/2007).

published a more radical point of view in an article entitled “Europe and the ‘capitulators’”⁴² in which “the threat that Islamism imposes on the French spirit” was evoked.

On the side of the weekly newspapers, *Le Nouvel Observateur* (often considered to be centre-left oriented) published the twelve Danish cartoons on its website, as well as *Courrier international*. *L'Express* (right-wing) also published the twelve Danish cartoons. The owner of the newspaper, Serge Dassault, who is a leader of the weapon industry in France, was willing to prevent the publication of the cartoons. He asked the director of the publication, Denis Jeambar, to stop the issue. He insisted on the fact that the French President Jacques Chirac was going to Saudi Arabia fifteen days later and would discuss contracts. The director of the publication refused those pressures⁴³. In its edition of 11 to 17 February 2006, the weekly newspaper *Marianne* (reactionary, nationalist left oriented) published an editorial written by Jean-François Kahn entitled “Behind the affair of the Danish cartoons : the temptation of totalitarianism” : “What stands out from now onwards, behind the false scandal of the Danish Mahomet cartoons, is the great offensive of fundamentalists [...], in order to impose to us a totalitarian ideological order”.

On 8 February 2006, the weekly satiric newspaper *Le Canard enchaîné* published a series of original cartoons under the title “Satanic cartoons”. It stated that the reactions to the Danish cartoons were the fruit of “clericalism, this *Canard's* old enemy” and that “Fundamentalists fight for the respect of the freedom of... oppression”. One of the cartoons, entitled “The fear of the white page”, shows someone telling a caricaturist standing in front of a white sheet : “Be careful not to trigger a world war”.

On 7 February 2006, the National federation of the French press (*Fédération nationale de la presse française*, FNPF) and the union of journalists SNJ-CGT, called for the defence of the freedom of press in separate communiqués.

4.2. The reactions of politicians and intellectuals

After the publication of the Danish cartoons in *France Soir*, the President of the French Republic Jacques Chirac received Dalil Boubakeur, rector of the Mosque of Paris and president of the CFCM, who had denounced the “provocation” of *France Soir* against the Muslims of France⁴⁴. According to a communiqué, at the occasion of this meeting, President Jacques Chirac « call[ed] [...] everyone to the biggest spirit of responsibility, of respect and of moderation in order to avoid anything that could hurt others’ beliefs. He also underlined that “the principle of freedom of expression constitutes one of the basis of the Republic”.

On 8 February 2006, day of the publication of the special issue of *Charlie Hebdo*, during the Council of ministers, Jacques Chirac “condemn[ed]” “the manifest provocations that are likely to dangerously stir up passions”. Philippe Val, the director of *Charlie Hebdo*, denied having made any provocation and said that he was “shocked” by Jacques Chirac’s words. Those words were also severely criticised on the left. The Socialist deputy Jean Glavany said that the “parallel” made by Jacques Chirac between the caricaturists and “those who launch fatwas” was “very grave” and “unbearable”⁴⁵.

⁴² « L’Europe et les capitulards », Ivan Rioufol, *Le Figaro*, 17 February 2006.

⁴³ Cf. *Libération*, 8 February 2007.

⁴⁴ Cf. *L’Express*, 3 February 2006.

⁴⁵ AFP, 8 February 2006.

There were other reactions within the French government⁴⁶, with different members of the government reacting against censorship but promoting moderation. In visit in Troyes, the Prime Minister Dominique de Villepin called for the reconciliation of “demand of freedom” and “demand of respect” and for the avoidance, “of course, of anything that could hurt in vain”. On 2 February 2006, the Inner Minister Nicolas Sarkozy (who is the Minister in charge of worship) stated on the TV information channel LCI that he preferred “the excess of caricature” to “the excess of censorship” : “When I see that fatwas are launched on Danish people [...] and that the totality of Danish nationals and soldiers are targeted, it is nothing but extremely shocking” ; “it tells a lot on the democratic conceptions of a certain number of actors”. In visit in Turkey, the minister of External Affairs, Philippe Douste-Blazy, also defended the freedom of press : “We think that the principle of freedom of press, that the French authorities defend everywhere in the world, cannot be questioned” ; “However, this principle of freedom must be exercised in a spirit of tolerance, of respect of beliefs, of respect of religions which is the very basis to the principle of *laïcité* in force in our country”, he nuanced.

On the left side, the Socialist Party stated that “it is not the street that makes the law” and that “the freedom of press and of expression are consubstantial to democracy and are not negociable”. The national secretary of the Socialist Party for *laïcité*, Jean Glavany, denounced “an unacceptable concession to integrisms and fundamentalisms”⁴⁷ in some positions taken after the publication of the cartoons. On 6 February 2006, the French Communist Party (PCF) condemned “with the biggest strength” the violence against newspapers or countries following the publication of the cartoons. The association Egale (Egalité, Laïcité, Europe), which promotes *laïcité*, presided by the “radical republican left” senator Gérard Delfau, denounced the « Holy alliance » against the freedom of expression and stated that “nothing must be conceded to totalitarian movements”⁴⁸.

What about the reactions of intellectuals ? On 1 March 2006, *Charlie Hebdo* published “the manifesto of the twelve”, a manifesto signed by twelve intellectuals, entitled « Together against the new totalitarianism, islamism »⁴⁹. Those twelve intellectuals are Ayaan Hirsi Ali (deputy in the Netherlands, of Somalian origin), Chahla Chafiq (writer of iranian origin, exiled in France), Caroline Fourest (essayist), Bernard Henri-Lévy (philosopher), Irshad Manji (writer), Mehdi Mozaffari (essayist), Maryam Namazie (essayist), Taslima Nasreen (doctor and writer), Salman Rushdie (writer), Antoine Sfeir (director of the journal *Les Cahiers de l'Orient*), Philippe Val (director of publication of *Charlie Hebdo*), Ibn Warraq (researcher at New York Institute). Many of them are exiled from countries enduring an islamist regime. This manifesto was also published in *L'Express* on 2 March 2006. It started with these words : “After winning against fascism, nazism and stalinism, the world faces a new global threat of a totalitarian kind : islamism. We, writers, journalists, intellectuals, call for the resistance to religious totalitarianism and for the promotion of freedom, of equality of opportunities and of *laïcité* for all”.

Many intellectuals also took position individually. For instance, on 7 February 2006, in an interview on the radio channel RTL, the right-wing intellectual and ex-minister Luc

⁴⁶ Cf. *Le Monde*'s website : http://abonnes.lemonde.fr/web/imprimer_element/0,40-0@2-3214,50-737524,0.html (18/3/2007).

⁴⁷ http://jean.glavany.free.fr/article.php3?id_article=153.

⁴⁸ Cf. <http://www.egale.org/index.php> (18/3/2007).

⁴⁹ The text can be found at <http://www.lexpress.fr/info/monde/dossier/islamisme/dossier.asp?id=437179> (19/3/2007).

Ferry stated that “basically there is something scaring that is almost the equivalent of the rise of nazism, maybe even worse, because more numerous, and with almost comparable objectives, with a hatred that is shown all the time, and we are here talking about the limits of the freedom of expression”. Ha added that “our repentance, our guilt, the cry of the white man as Bruckner said, for me it is the horror, at the same time weakness and nonsense”⁵⁰. Some persons considered as “Muslim intellectuals” were also heard. For instance, on 9 February 2006, Tariq Ramadan, interviewed on the radio RMC-Info, took position and said that the attitude of *Charlie Hebdo* was “stupid”.

4.3. The mobilisation of Muslim organisations and civil society

According to a CSA poll published by the daily newspaper *La Croix* on 10 February 2006, 54% of the French people considered that the media had been wrong to publish the cartoons⁵¹. A few demonstrations took place in different French cities. On 5 February 2006, several thousands of persons demonstrated in Paris against the publication of the cartoons by *France Soir*. On 11 February 2006, 7 200 persons (according to the police) demonstrated in Paris after the call launched by the Union of the Muslim associations of Seine-Saint-Denis (*Union des associations musulmanes de la Seine-Saint-Denis*, UAM 93), in order to protest against the publication of the Mahomet cartoons⁵². The UAM congratulated itself for the “frank success” of the demonstration (20 000 persons according to its evaluation). It called for a law on blasphemy. In Strasbourg, 2000 persons demonstrated after the call of the Party of the Muslims of France (*Parti des musulmans de France*). Some media stressed the peaceful character of the demonstrations in France compared to other countries⁵³. On 25 February 2006, in Lyons, around 250 persons (according to the police) to 600 persons (according to the organisers) demonstrated in Lyons, also after the call of the Party of the Muslims of France. On 26 February 2006, between 1700 and 2000 according to the police, 2500 to 3000 persons according to the organisers, demonstrated quietly in Montpellier.

If most of the demonstrations were organised by Muslim organisations, other worship organisations took position in the affair. Thus on 9 February 2006, in Lille, representatives of the Catholic, Jewish and Muslim cults of Lille denounced in a common communiqué the “amalgams made by the cartoons against Muslims”⁵⁴.

4.4. Charlie Hebdo’s trial : the announced reaffirmation of freedom of expression

One aspect of the mobilisation against the cartoon took the form of law case. Firstly, on 6 February 2006, the representative of the antiracist organisation MRAP, Mouloud Aounit, announced that he wanted to bring an action against *France Soir*. He stated that *France Soir* was a newspaper of the “extreme right” (“*un journal de la droite extreme*”) and that “Denmark [was] a racist country”. According to him, fanatics used the excuse of cartoons to apply their sectarian point of view. However, on 7 February, a network of grassroots committees of MRAP and several members of the association’s direction ask their leader to take off its complaint against *France Soir*.

⁵⁰ The interview can be listened to on http://lesogres.org/article.php3?id_article=1493 (19/3/2007).

⁵¹ <http://www.csa-fr.com/dataset/data2006/opi20060208a.htm> (19/3/2007).

⁵² « Manifestations à Paris et à Strasbourg contre la publication des caricatures de Mahomet », *Le Monde*, 11 February 2006.

⁵³ « Les élus témoignent du calme des Musulmans français », *Le Monde*, 12 February 2006.

⁵⁴ *Le Monde*, 12 February 2006.

Charlie Hebdo was attacked before the law by several organisations. On 12 September 2006, the 17th chamber of the court of summary jurisdiction of Paris nonsuited the Federation of Islamic associations from Africa, Comoros and Caribbean (FFAIACA), one of the associations represented in the CFCM, considering that its complaint against the publishing of the Danish cartoons in the French press was unacceptable. This federation had assigned *Charlie Hebdo* and *France Soir* for incitement to racial hatred. The two newspapers had challenged the federation's interest to act in justice. In its judgement, the court considered that the federation could not act on the basis of incitement to racial hatred as the status of the federation contained reference neither to the combat against racism nor to the assistance of victims of discrimination linked to ethnic, national, racial or religious origin (article 48-1 of the law on press).

On 10 February 2006, the CFCM had also announced its decision to engage an action in court against the French newspapers World Islamic League attacked only *Charlie Hebdo* for "public abuse towards a group of persons because of its religion"⁵⁵ before the court of summary jurisdiction of Paris⁵⁶. The organisations chose to attack only *Charlie Hebdo* and not *France Soir*, arguing that, being the first French newspaper to publish the cartoons, *France Soir* was doing its information role, whereas *Charlie Hebdo*, "by publishing them afterwards, in a special issue, reprinted several times, chose the provocation with a lucrative character". The complainants chose to attack only two of the twelve Danish cartoons as well as Cabu's cartoon published on the front page. They argued that, if they had attacked the newspaper for delict of blasphemy, they would have attacked all the cartoons. By attacking two of them only, they admitted that the Prophet could be caricatured. What they did not accept was what they considered as the racist character of some of the cartoons. By attacking two cartoons and not all of them, the Muslim organisations that were the complainants showed concern not to be considered as fundamentalists taking position against the freedom of expression⁵⁷. The Muslim organisations are conscious of the fragile border between defamation and legal expression of personal opinion. In other occasions, they chose not to attack. For instance, in 2006, they chose not to pursue Robert Redeker, a philosopher who had roughly criticised Mahomet in an article in *Le Figaro*⁵⁸.

Charlie Hebdo's law case occurred on 7 and 8 February 2007. During the case, and with the presidential campaign as a background, several key politicians expressed their support to *Charlie Hebdo*. The leader of the main right party, Union for a popular movement (*Union pour un Mouvement Populaire*, UMP) Nicolas Sarkozy (who is also the Inner Minister), wrote a support letter to *Charlie Hebdo*. The Big Mosque of Paris and the UOIF felt betrayed by the Minister of cult, who played a big role in organising the CFCM, where they are represented today⁵⁹. The following day, the CFCM gathered for an "exceptional meeting" in order to consider how it should react to the position taken by the Inner Minister.

⁵⁵ The 1881 law on the press (article 48) mentions the « abuse against a group of persons because of their origin or their belonging or non belonging to a specific ethnic group, nation, race or religion ».

⁵⁶ « Caricatures : les organisations musulmanes hésitent à lancer des poursuites systématiques », *Le Monde*, 8 February 2007 ; « Caricatures, religion et politique », *Le Monde*, 9 February 2007 ; « La procureure a requis la relaxe de Charlie Hebdo pour avoir publié des caricatures », *Le Monde*, 10 February 2007.

⁵⁷ « Face à 'Charlie', la Mosquée sur la défensive », *Libération*, 3 February 2007 ; « La Mosquée de Paris justifie son procès contre 'Charlie Hebdo' », *Le Monde*, 3 February 2007.

⁵⁸ Robert Redeker, « Face aux intimidations islamistes, que doit faire le monde libre ? », *Le Figaro*, 19 September 2006.

⁵⁹ « L'islam officiel se sent trahi par Sarkozy », *Libération*, 8 February 2007 ; « Le soutien de Nicolas Sarkozy à l'hebdomadaire sème la confusion dans les institutions musulmanes », *Le Monde*, 9 February 2007.

After evoking the possibility of a collective resignation, the CFCM finally decided to “denounce the instrumentalisation of this affair by the leaders of political parties”⁶⁰.

On the side of *Charlie Hebdo*, about fifteen witnesses made a deposition in favour of the newspaper, amongst whom the Muslim essayist Abdelwahab Meddeb, the director of *Les Cahiers de l'Orient* Antoine Sfeir, the main editor of the culture pages of Jyllands-Posten Flemming Rose, the national secretary of the Socialist Party François Hollande, the leader of the centrist party Union for the French Democracy (*Union pour la Démocratie Française*, UDF) François Bayrou, the “intellectual” Elisabeth Badinter, the ex-director of *L'Express* Denis Jeambar. At the end, the attorney required the release of the director of publication of *Charlie Hebdo*, considering that the delict of public abuse was not constituted, as the cartoons only targeted the fundamentalists and not all Muslims.

The trial was extensively covered by the dominant media. On 8 February 2007, *Le Monde* published an editorial entitled “Trial of another age, of another time”, in which it was stated that “one should have done the economy” of this trial and that “where the religion makes the law, we are close to totalitarianism”. On 9 February 2007, *Le Monde* devoted its first page to the case under the title “Cartoons, religion and politics”. In *Le Monde* of 10 February 2007, the article on the law case seems clearly on the side of the defence of the right of freedom, ambiguously considered as an element of the “national identity” : “Two long days of audience have given the feeling that what happened there [...] is nothing less than the solemn and passionate restatement of this fundamental value of the national identity that the freedom of expression is”⁶¹.

Two days before the opening of the trial, on 5 February 2007, *Libération* published a text⁶² supporting *Charlie Hebdo*, signed by many persons and associations, amongst which SOS Racisme, LICRA, Grand Orient de France, Union des familles laïques (UFAL), Comité laïcité République, and Syndicat national des journalistes (SNJ). The text evokes a trial led by “traditional Muslim organisations (the Big Mosque of Paris), fundamentalist Muslim organisations (the UOIF) and even one of the funders of the wahhabit extremist islam from Saoudi Arabia (the World Islamic League)”. On 7 February 2007, the day of the opening of the law case, *Liberation* published an article entitled “Charlie before the justice of men”, as well as an article of Fadela Amara, leader of the movement *Ni putes ni soumises*, supporting *Charlie Hebdo* and mentioning the “iniquitous law case” against the newspaper⁶³. The redactions of *Libération* and *Charlie Hebdo* gathered to publish a special common edition that they called “*Charlibération*”. Seven pages of that special edition were devoted to *Charlie Hebdo*'s law case and illustrated by journalists of *Charlie Hebdo*. The latter also participated in the other sequences of the newspaper alongside the journalists of *Libération*. On 8 February 2007, in his editorial in *Liberation*, Laurent Joffrin talked about the “stupid law case”⁶⁴ led against *Charlie Hebdo*. On its side, at the occasion of the trial, *Charlie Hebdo* published a new special edition (special issue trial, 7 February 2007).

⁶⁰ Three days earlier, on the main French TV channel, TF1, in a political programme entitled “I have a question to ask you”, Nicolas Sarkozy had said that “when one loves France”, “one respects her rules, [...] one does not cut the throat of the sheep in one's flat”. These words had triggered many comments. This part of the programme had been taken off from the version that first circulated on the websites of TF1 and LCI.

⁶¹ « « La procureure a requis la relaxe de Charlie Hebdo pour avoir publié des caricatures », *Le Monde*, 10 February 2007.

⁶² « Nous soutenons ‘Charlie Hebdo’ », *Libération*, 5 February 2007. Cf. <http://www.liberation.fr/rebonds/232993.FR.php> (19/3/2007).

⁶³ « Au nom de Dieu, on voile, on tue, on brûle, on lapide », Fadela Amara, *Libération*, 7 February 2007.

⁶⁴ « Trou d'air », éditorial par Laurent Joffrin, *Libération*, 8 février 2007.

The trial ended on 22 March 2007⁶⁵. Philippe Val was relaxed. In its judgement, the court considers that Cabu's cartoon and the Danish cartoon representing kamikazes arriving to the paradise cannot be perceived as targeting the whole Muslim community on the ground of its religion. Oppositely, the third cartoon (representing Mahomet with a turban looking like a bomb) "clearly lets think that this terrorist violence would be inherent to the Muslim religion". But the court states that this cartoon is included in a special issue whose front page presents the general position of the newspaper (against the rise of Muslim fundamentalism). Hence, despite the hurting, see shocking, character of this cartoon for the Muslims, the context of the publication seems exclusive of any will to directly and groundlessly offend the Muslims as a whole. According to the court, the limits of freedom of expression have thus not been exceeded.

5. Conclusion

From that brief review of the current debates related to multiculturalism in France, especially the "headscarf affair" and the "Danish cartoons affair", it appears that those debates are characterised by the expression of a "national-republican reaction" that leads to a rejection of the "others" and, in particular, to a rising "islamophobia". A striking aspect is the role of the dominant political and intellectual actors in that rising islamophobia, as well as the responsibility of the dominant media. It is possible to evoke a "mediatic islamophobia" (Geisser, 2003, pp. 23-56), a "mediatic construction of a common sense on Islam" (id., p. 25), that has deeply changed for thirty years (Deltombe, 2005).

Thus, between 1989 and 2003, the "problem of the headscarf" does not seem to have "objectively" increased. On the contrary, empirical data show a substantial reduction of the number of headscarves in public schools and a tendency to the cooling down of the conflicts within schools. In 1994, 300 incidents required a mediation ; in 2002, the number had fallen down to 150, and the mediator of the ministry of National Education on this issue, Hanifa Chérifi, observed that most of the time, the conflicts were peacefully resolved. The come back of the public controversy around the Muslim headscarf in 2003-2004 was favoured by the national (post-2002 presidential elections) and international (9/11) context of crisis. But it was also conditioned by the historical relation of the French society towards Islam. For this reason, analysing this new rise of islamophobia within the French context implies to refer to that history, and especially to the colonial experience :

"The new islamophobia grafts itself onto a both selective and traumatic relation to our national memory. [...] In that sense, it well constitutes a resolutely 'modern' anti-Muslim racism that takes shape in a post-revolutionary racialist ideology [...], progressively developing towards a conquering and missionary universalism. From this viewpoint, France's imperial policy and, particularly, the colonisation of Algeria, have represented this 'strong moment' of the practice of an institutional islamophobia, as a way of domination and exploitation of Muslim indigenous [...]. The link between this colonial islamophobia and the new islamophobia is today operated by opinion leaders and mediatic intellectuals in a totally paradoxical way : rarely ex proponents of a French Algeria but much more often convinced militants of the cause of the 'Third world' and anti-colonialists, a lot of them have become the vehicles of a latent islamophobia that pretends to combat the Muslim obscurantism and fundamentalism on behalf of the values of freedom, *laïcité* and democracy, the same values that they called on during their militant youth" (Geisser, 2003, p. 21).

⁶⁵ « Procès Charlie : les caricatures de Mahomet relaxées », *Libération*, 23 March 2007.

Those “fundamentalists of the Republic” (Gèze, 2006), positioned on the right as well as on the left of the political spectrum, were also omnipresent in the media during the Danish cartoons affair or during the urban riots of November 2005. Beyond their differences, those “mediatic intellectuals” (such as Alain Finkielkraut, Pierre-André Taguieff, Caroline Fourest, etc.) have in common to present themselves as defending a “French Republic” which, according to them, would be undermined by the rise of communitarianism, and to agitate the threat of Islam. While claiming the defence of an abstract universalism, they totally ignore the complexity and the plurality of the experiences of Islam amongst the population stemming from immigration in France. They also deeply occult the responsibility of the experience of racism and discrimination in the construction of a “community of experience” within the Muslim population and in the construction of a renewed relation to Islam in what has been called the “second generation” (Khosrokhavar, 1997). Moreover, the discourse of these opinion leaders today increasingly meets the one of the security experts (such as Alexandre Del Valle, Frédéric Encel, Antoine Sfeir, Antoine Basbous), who have acquired, especially since 9/11, a real public notoriety and access to the dominant media as well as to public institutions in charge of the State security. Those “new experts of fear” (Geisser, 2003, pp. 57-76) articulate the fear of a fantasised Islam to the defence of the Western world, especially Israël, against the “Muslim world”. Islam is here essentialised, considered as “fundamentalist” by nature, which leads to a geopolitical vision of the world based on the representation of a clash of civilizations between the civilised Western world and the fundamentalist, threatening Muslim world.

Hence the new islamophobia is not exclusively a popular phenomenon, a “racism of petty white” (pretty racism), threatened in their identity by the social mobility of the immigrants’ children that have become “nationals”. It is also a political, intellectual and mediatic phenomenon, whose main vehicles are “national-republican” opinion leaders who present Islam as a threat on “*laïcité*”, “the Republic” or “the Nation”, on behalf of which a “national and republican jump” is presented as a vital necessity.

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7. Appendix. Main contemporary debates related to multiculturalism in France

General issue	Crisis/Event	Outline of the crisis/event	Date
1. ISLAM/ LAÏCITE	2004 law on <i>laïcité</i>	Act nr 2004-228 of 15 March 2004 regulating, as an enforcement of the principle of secularism, the wearing of signs or clothes expressing a religious belonging in public primary and secondary schools (<i>loi encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics</i>). According to this Act, the wearing of conspicuous religious signs is forbidden in public schools. The adoption of this Act triggers huge debates on the compatibility of Islam and secularism and, on the other side, on the rise of islamophobia in France.	15 March 2004
	Institutionalisation of an official representation of Islam	The French Council for Muslim Worship (<i>Conseil français du culte musulman, CFCM</i>), which is the main official organisation representing Islam in France, shows great internal divisions. This Council was initiated in 1999 by Jean-Pierre Chevènement (Inner Minister during the Jospin government) and was really active from 2003 onwards after Nicolas Sarkozy (Inner Minister under the Raffarin government) led the consultation process on its creation further.	2005-2006
	Muslim staff discriminated in Paris airport	Employees of the Roissy airport (security agents, luggage staff, cleaning staff) having a Muslim background are prevented from entering some zones of the airport (<i>zones réservées</i>) in the name of the “principle of precaution” and the fight against terrorism (Prime Minister Sarkozy justifies the measure by the “duty of precaution”). In November, the administrative court gives reason to the employees.	November 2006
	Building of mosques	Recurrent resistances to the building of mosques in French cities. For instance in Marseilles, after years of debates, the City Council finally took the decision (on 17 July 2006) to rent a land for 99 years for the building of a “big mosque”. In Belfort, after long debates, a mosque started being built in June 2006 in the city centre. Opponents had claimed that it would spoil the historical character of the city centre and therefore that it should be built in the periphery of the city. In Nice, a project of a new mosque is being blocked by the right-wing mayor Jacques Peyrat (UMP).	Recurrent
	Muslim schools	Lyons : the local state refuses the opening of a Muslim school (Al-Kindi school) in Decines (near Lyons). This decision engenders local demonstrations against islamophobia and discrimination.	September 2006
	“Robert Redeker affair”	After writing an article criticizing Islam and Mahomet in a national newspaper (<i>Le Figaro</i> , 19 September 2006), Robert Redeker (a professor of philosophy politically close to the “republican left” represented by Jean-Pierre Chevènement) is threatened to death. In this	19 September 2006

		article, he notably wrote that Islam was a religion exalting violence and hate and insulted directly Mahomet in a very childish way. This engenders a polemic on the dilemma between freedom of expression and incitation to racial (or religious) hate.	
	Danish Mahomet cartoons	The polemic grows in France after the publishing of cartoons representing Mahomet in Danish media (30 September 2005). Some French media (<i>France soir</i> , <i>Charlie Hebdo</i>) decide to publish the cartoons. This provokes demonstrations, notably in Lyons (3 February 2006), Paris and Strasbourg (11 February 2006). According to Dalil Boubakeur, president of the CFCM (<i>Conseil français du culte musulman</i>), and to some antiracist organisations, this publishing is a provocation and a sign of islamophobia.	February 2006
	“Fake anti-Semitic attack” in the subway	« <i>Affaire du RER D</i> » : on 9 July 2004, a young woman declares to the police that she was the victim of an anti-Semitic attack in the subway. This leads to a wave of indignation in the media and amongst politicians. Three days later, the woman recognises having invented the whole story. This “media error” seems to echo the “affair of the luggage agent of Roissy” (<i>affaire du bagagiste de Roissy</i>) of December 2002 when a luggage agent of Roissy airport was arrested and suspected of being an « islamist terrorist » after weapons were discovered in his car. This affair was highly mediatised and the culpability of the man was little questioned by the dominant media. Finally, this happened to be a trap organised by the luggage agent’s own family.	July 2004
	Ilan Halimi Affair	A Jewish young man, Ilan Halimi, is sequestered, tortured and killed by the “gang of barbarians” (led by Youssouf Fofana, a French man with a black Muslim background). This triggers a large polemic on whether the crime has an anti-Semitic mobile or not (such a mobile is denied by Fofana).	January-February 2006
2. POST-COLONIALISM	« Appel des Indigènes”	The « Call of the Indigenous of the Republic » (<i>Appel des Indigènes de la République</i>) is a text launched in January 2005 by some personalities, social scientists and NGO leaders. It calls to the constitution of “Assizes of post-colonial anti-colonialism”. It states that France was and still is a colonial state. It denounces the extent of ethnic discriminations, the constitution of an official history of the colonial period (in the context of the debates on the Mékachéra Act), and the Secularism Act “against the Muslim headscarf”. This movement provokes a great debate in France, notably amongst left and antiracist organisations, some of them considering it as a communautarist movement. The Indigenous organise a demonstration in Paris on 8 May 2005 (7000 persons according to the movement itself).	January 2005
	Mékachéra Act on “the positive role of the French presence overseas”	Act nr 2005-158 of 23 February 2005 bringing recognition of the Nation and national contribution in favour of the repatriated French people (<i>loi portant reconnaissance de la Nation et contribution nationale en faveur des Français rapatriés</i>). This Act on repatriates provokes large mobilisations and debates because of its article 4	23 February 2005

		<p>stating that “school programmes recognise in particular the positive role of the French presence overseas, notably in North Africa”.</p> <p>On 25 March 2005, some historians publish a petition entitled “Colonisation: No to the teaching of an official history”.</p> <p>The debate extends to all the “memorial laws”, that is also the 21 May 2001 Taubira Act on the recognition of slavery as a crime against humanity, the 13 July 1990 Gayssot Act making the deny of the existence of crimes against humanity an offence, and the 29 January 2001 Act on the recognition of the Armenian genocide.</p> <p>On 15 February 2006, a decree suppresses the contested sentence of the Mékachéra Act on the “positive role of the French presence overseas”.</p>	
	Recognition of Harkis	<p>Several elements indicate the beginning of a recognition of Harkis in the French society. Harkis are the French citizens from Algeria – <i>Français musulmans d’Algérie</i> – who combated on the French side during the Algerian war (200 000 persons). After the 1962 Evian agreements, many of them were abandoned in Algeria by the French state, and were massacred. Those who came to France were put in camps, some of them until the 1980s, and they endured great discriminations.</p> <p>The 23 February 2005 Mékachéra Act recognise the Harkis and foresees their financial compensation.</p> <p>On 25 September 2001, for the first time, an official ceremony of homage to Harkis and recognition of their suffering was organised. On 31 March 2003, a decree perpetuated this homage by instituting 25 September as a national day “in recognition to the sacrifices consented” by Harkis.</p>	From 2001 onwards
	Film « Indigènes »	<p>27 september 2006 : coming out of a film by Rachid Bouchareb telling the story of “indigenous soldiers” from the Algerian colony fighting in the French army during the Second World war. This film (in which plays the “beur” star Jamel Debbouze) gets a big public success and triggers many debates around post-colonialism, the recognition of the participation of the immigrants and their descendants to the French nation, and their recognition as full citizens.</p>	27 September 2006
	Financial pensions for indigenous soldiers	<p>The day the film “Indigènes” comes out, president Chirac announces the revalorisation of the pension paid to the ex-soldiers originating from the French colonies (which was now amounting only to 30% of the one perceived by the French metropolitan soldiers). This measure had been promised by politicians several times before. It concerns 80 000 “indigenous”.</p>	September 2006
	Creation of the CRAN	<p>Creation of the CRAN, Conseil représentatif des associations noires (federation of black associations). Its president is Patrick Lozes (UDF).</p>	November 2005
	“Dieudonné affair”	<p>The humorist and politically engaged Dieudonné (who has a French mother and a father from Cameroun) denounces a “memorial monopoly” of the Shoah to the detriment of the recognition of slavery. He is accused of diffusing anti-Semitic ideas and is the object of</p>	2004

		complaints for incitation to racial hate. He has recently accepted to participate to a meeting organized by the National Front.	
3. ANTI-RACISM, ANTI-DISCRIMINATION, RECOGNITION OF DIVERSITY	Debate on the introduction of ethnic statistics	<ul style="list-style-type: none"> - July 2006 : publication of an article about the perceptions by the public of different methods of declaration of ethnic or national origin (by Patrick Simon and Martin Clément, National Institute for Demographic Studies, INED). - September 2006 : Polemic on another study launched by the INED on the integration of the children of immigrants in France because this study implies to record the national origin of the persons interviewed. The National Commission on computer data (CNIL) gives its authorization for this recording on behalf of the “public interest” of the study. - October 2006 : the Centre for Strategic Analysis (CAS, whose mission is to help the government define and implement its policies) organises a symposium on ethnic statistics. This finds much echo in the media. - Politicians engage in the debate : Jacques Chirac and Dominique de Villepin are opponents of ethnic statistics, Nicolas Sarkozy is proponent. - February 2006 : Polemic after Inner Minister Nicolas Sarkozy suggests that police statistics should record the ethnic origin of delinquents. 	2006
	Creation of the HALDE	Creation of the High authority for the fight against discrimination and for equality (<i>Haute Autorité pour la lutte contre les discriminations et l'égalité</i>).	2004
	“Positive discrimination”	The First “ZEP promotion” (which benefited from the positive discrimination scheme according to which a quota of pupils stemming from Priority education zones in deprived neighbourhoods would access to the High school Sciences Po) goes out of Sciences Po in June 2006. Debate on the extent of its success. Inner Minister Nicolas Sarkozy expresses his interest for positive discrimination.	2004-2006
	Recognition of diversity in workplace	After the Charter for diversity (<i>Charte de la diversité</i>) launched by Claude Bébéar, published on 22 October 2004 and adopted by 610 entreprises, interprofessional negotiations are led about diversity in entreprises (ending on 11 October 2006). The MEDEF (union of patronat) launches a campaign on diversity (<i>Tour de France de la diversité</i>) from 9 October to 7 December 2006.	2004-2006
	Recognition of diversity in media	Harry Roselmack, first black Moderator for the evening news on TF1 (French first private TV channel). Roselmack has a Caribbean background.	July 2006
	Divisions of antiracist associations	7 November 2004 : a large antiracist demonstration reveals the great divisions within the antiracist movement. Although some organisations (<i>Ligue des droits de l'homme</i> and	7 November 2004

		MRAP) had taken the initiative of organising a large unitary antiracist demonstration, other associations (such as SOS Racisme) refuse to participate, arguing that the fight against anti-Semitism must be given more place.	
	Debate on the islamophobia of the MRAP and its leader	The antiracist association <i>Mouvement contre le racisme et pour l'amitié entre les peuples</i> (MRAP) and its president Mouloud Aounit are suspected of having an anti-Semitic stance because of the stress that they put on the fight against islamophobia.	June 2006
	« Ka Tribu »	On 28 May 2006, the KA Tribu, a small black and explicitly anti-Semitic group created in December 2004, demonstrates in Paris, in a traditionally Jewish neighbourhood (rue des Rosiers). It is considered as a Black extremist movement and condemned for incitation to racial hate. The President of the Republic dissolves it in July 2006.	2004-2006
4. BANLIEUES AND URBAN RIOTS	Urban riots of November 2005	On 27 October 2005, in Clichy-Montfermeil (near Paris), two young boys of immigrant parents die in an electric transformer as they were pursued by policemen. This engenders urban riots that extend to 200 French cities during three weeks. This provokes a great social crisis. On 8 November 2005, the government declares the state of emergency. On 31 March 2006, the Equality of opportunities Act, presented by the government as an answer to the riots, is adopted. On the other side, the government promotes a harsher repression of delinquency.	November 2005 (during three weeks)
	Debate on the “school districting”	In the context of the presidential campaign, a debate arises on the school districting (<i>carte scolaire</i>), a policy scheme officially compounding parents to put their children in a specific school according to their place of residence, in order to avoid segregation. The school districting is blamed for not being able to prevent social and ethnic segregation. This debate is pushed forward by first ground candidates such as Segolene Royal (socialist candidate) or Nicolas Sarkozy (right potential candidate).	From September 2006 onwards

