

Veiled Nannies and Secular Futures in France

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ABSTRACT

This article focuses on recent French efforts to expand legal regulation of religious symbols to childcare. Controversies over ‘veiled nannies’ serve as points of departure for investigating *laïcité* – French secularism – through which religion is regulated. The investigation is based on fieldwork among Muslim women in Marseille and on the analysis of legal decisions, official documents, and media. The debates on whether to legislate on religious symbols in the domain of childcare reveal how the line between religion and politics, and private and public is continuously redrawn through state efforts to cultivate and govern (secular) Republican selves. Drawing on Agrama’s [2012a. *Questioning Secularism: Islam, Sovereignty and the Rule of Law in Egypt*. Chicago, IL: University of Chicago Press] conceptualisation of secularism as a ‘problem-space’, I argue that legal regulation of religious symbols institutionalises a ‘secular suspicion’ at the heart of efforts to imagine and govern French society and its future, a future in which Muslims increasingly find it difficult to imagine themselves.

KEYWORDS France; hijab; religious freedom; secular suspicion; public and private

Nanny of the Year

In December 2012, Isabelle was elected nanny of the year (*la meilleure nounou*) in a national competition held by the French *Académie des Gouvernantes* after having been evaluated on a number of skills and talents, such as bottle-feeding, changing diapers, and seriousness and quality of engagement with children. Despite this confirmation of her skills, the fact that Isabelle wears a hijab makes her suitability as a caretaker controversial in France. This is evident in recent legislative initiatives, largely supported by the general public,¹ to regulate religious symbols in private-sector activities open to the public, and in particular ‘where there are children’ (*là où il y a des enfants*).²

In France, nowadays people place great faith in the law. Since they erupted in the 1980s, the French *affaires du foulard islamique* (hijab controversies) have propelled

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the juridification of religion. Law proliferates. Numerous legal propositions to regulate religious symbols and practices have been debated. Some have been rejected and others passed. New laws have made Muslim women's sartorial practices, legally defined as 'religious symbols', an object of litigation, and debates on the legality of headscarves and veils animate everyday encounters as well as politics and the media (see de Galember 2014). In this article, I take the 'shadows of the secular' (Asad 2003) cast by these debates as a point of departure for investigating the peculiar formation of French secularism – *la laïcité* – through which religion is regulated in contemporary France.³ While a number of publications have scrutinised the laws of 2004 and 2009,⁴ I will here focus on recent efforts to expand the legal regulation of religious symbols to the domain of private childcare. The investigation is based on long-term ethnographic fieldwork among Muslim women in Marseille, and on ethnographically grounded discourse analysis of legal decisions, official documents, and media coverage pertaining particularly to the law-making initiative known in France as the *loi nounous* – the 'nanny law'.⁵ The law was passed by the Senate in 2011, but did not take effect for more than three years. In May 2015, it was finally adopted by the National Assembly in a modified form.

The first part of the article argues that French efforts to regulate religion through secular law, and public debates about such lawmaking have produced what I call a 'hijab-ban generation', whose relation to French society is overdetermined by their interpellation in the hijab debates. In the second part, I shift the optic and examine how Muslim women are produced as problematic subjects for society in recent efforts to extend the legal regulation of religious symbols to the domain of private childcare. The analysis is geared not so much towards understanding *Why the French Don't Like Headscarves* (Bowen 2007), as to examining the work that the legal regulation of religion does in contemporary France. Drawing on Agrama's (2012a) conceptualisation of secularism as a 'problem-space', I argue that the legal regulation of religious symbols and debates about such regulation institutionalise a 'secular suspicion' at the heart of efforts to imagine and govern 'French society' and its future.

The Hijab-ban Generation in Marseille

The *affaires du foulard islamique* and the juridification of religion have accompanied a generation of Muslim women from childhood and youth into adulthood. Since 1996, I have followed this process through several cycles of fieldwork in the infamous area of the *Quartiers Nord* in Marseille. Marseille's population was constituted by successive migratory movements and settlements, and is characterised by a multitude of ethnicities, cultures, languages, and religions. Its legendary cosmopolitanism is ambivalently embraced and rejected, represented in clichés of the city of migrants – the 'Arab' city – and more recently the 'Muslim' city. Yet despite the city's claim to cosmopolitanism, the position of Muslims in the life of Marseille is ambiguous. While they are not totally excluded, their legitimacy on the local stage is subject to debate and to hostile questioning (Lorcerie and Geisser 2011: 58). In the 1980s and 1990s, Marseille became a stronghold for the far-right National Front, which nourished itself on the postcolonial racism that still remains despite Marseille's large-scale urban renewal initiative dating back to

1995, which aimed to elevate Marseille into the top tier of European cities and to turn diversity into a resource for business and tourism. Muslims are estimated to make up 25–33% of Marseille's total population, but are concentrated in certain inner-city areas and the northern suburbs (Lorcerie and Geisser 2011).

My first fieldwork in 1996 centred on women affiliated with a local Muslim women's group that drew its members mostly from the 13th, 14th, and 15th arrondissements of the *Quartiers Nord*. These parts of the city are characterised by relatively low median income, high unemployment, and low levels of education. *Les Soeurs*⁶ was an independent group, but its orientation was close to the UOIF (*Union des Organisations Islamiques de France*). Around 20 women of different ages (between 16 and 60 years, with the majority in their twenties) gathered weekly to learn literary Arabic, recite the Qur'an, pray, and learn more about Islam. A majority of the women were either stay-at-home mothers or students, while a few worked caring for children and elderly people. Except for a French convert to Islam and a Palestinian woman, they were all of North African background, being either migrants themselves or belonging to the so-called second or third generation.

After my initial nine-month fieldwork in 1996, which included both participant observation and interviews, I kept in touch with some of the women by phone, e-mail, Facebook, and Skype. I revisited the *banlieues* (suburbs) several times over the years, until I started a new cycle of more intensive fieldwork in 2011. By the time of my most recent fieldwork in 2012/2013, the younger members of *les Soeurs*, who attended upper secondary school and university when we first met, had mostly married and many of them now had children of school age. Over time, the women's group had split and new groups had formed. Some women had remained affiliated to the same mosque and formed a new women's group within it. My most recent fieldwork consisted of participant observation and interviews with some members of this new women's mosque group and of the association *Collectif Agir pour nos Libertés* (see below), as well as with participants at the annual meeting of the organisation Muslims in the South (RAMS, the southern branch of UOIF).

Only a few of the women I met over the years have worked as *assistantes maternelles* and thus been directly affected by the nanny law. However, the implications of the law reverberate widely. Indeed, the debates around the legality of the hijab position these women in a particular relationship to French society. Most of the women in the women's groups I followed wore the hijab regularly. Some of the younger ones wore it less frequently, either because they attended a school where they were not allowed to wear it or because they did not feel 'ready' to take on this particular religious duty, but they all had mothers, sisters, and friends who wore it. Growing up, these women have repeatedly been interpellated as a problem for society, who can only be fully integrated into the social and political body on the condition that they abandon their headscarves. Their schooling and working lives have been affected by the legal construction of the *foulard islamique* as a religious symbol opposed to *laïcité* and the values of the French Republic (see Asad 2006; Fernando 2014b). They have encountered, embodied, and protested against new legal regulations that affect their religious practices and everyday lives. I suggest here to call them the 'hijab-ban generation'.

My first fieldwork in Marseille started some years into the headscarf affairs. In 1989 three schoolgirls in Creil had been suspended on the grounds that they were violating the principle of *laïcité* by refusing to remove their headscarves. In response, the Council of State⁷ had ruled that religious symbols were incompatible with *laïcité* only in cases where they were ostentatious and disruptive of public order. In a memorandum issued by Minister of Education François Bayrou in 1994, a distinction was made between ‘discreet’ and ‘ostentatious’ symbols, and the hijab was defined as ostentatious in itself, regardless of the context of its use. While several court judgements upheld the schoolgirls’ right to wear headscarves, provided they did not do so in a proselytising and disruptive manner, a number of local conflicts occurred throughout France in this period (Vakulenko 2012). Among them was the case of Souad who had recently been expelled from a ZEP vocational school when I first met her with *les Soeurs* in 1996.⁸ The school referred to the need to ensure health and security as justifying her expulsion: ‘They said my hijab might get stuck in the sewing machine,’ Souad mockingly explained to me one day while we were at her house, where she was teaching other women in the Muslim women’s group to sew children’s jumpsuits.⁹

Aware of Souad’s and other girls’ struggles, some attendants of *les Soeurs* left Marseille to continue secondary education in private Muslim institutions elsewhere. Others decided to postpone covering until they finished school, and yet others decided not to cover at all. In retrospect, Masoome, who decided to quit school because of the regulations, regretted not completing secondary education. Of two religious duties – to cover and to study – she had prioritised the first. Like many youths in the *banlieues* in the 1990s, her hopes and expectations for the future were low, and reflected her experience of being stigmatised as an Arab and a *banlieusarde*,¹⁰ the high unemployment rates in her neighbourhood, and the fact that most working women she knew had typical, low-skill occupations such as cleaning, housekeeping, or childminding.

Until 2004, many schools in the Marseille region accommodated various forms of covering (i.e. a light scarf or bandana) and let pupils wear hijabs outside the classroom. The 2004 ban on religious symbols in schools fixed the *foulard islamique* as an ostentatious religious symbol, and school space was thereafter more strictly supervised. When the 14-year-old daughter of Soroya – one of the active women in the women’s mosque group – started wearing a hijab, she and her mother were informed that the head was to be uncovered upon entering the outer schoolyard.¹¹ Soroya’s possibility to participate actively in her daughter’s schooling was also increasingly questioned. As a follow-up to a court case raised by a mother who had not been allowed to take part in a school outing because of her headscarf, a 2012 memorandum from the Minister of Education, Luc Chatel, recommended that schools uphold the ‘neutrality of public service’ by not letting ‘accompanying mothers’ wear ‘ostentatious religious symbols’.¹² Halima, a woman from the women’s mosque group who had read for younger children in her daughter’s school, was told she could no longer do so, since parents were complaining. ‘It is not like I preach for the children while I read them fairy tales,’ she indignantly pointed out to me.

Layla, then one of the youngest members of the *les Soeurs*, had opted for private Islamic secondary education in the late 1990s to keep her headscarf. Now a stay-at-

home mother of two, she worried new requirements for accompanying mothers would force her to withdraw from the council of her daughters' school. She considered moving her children to the newly established, private Muslim primary school or to a nearby Catholic private school – which she saw as more open to religion. Layla also worried about the possible consequences of the legal proposition to expand the hijab ban to all facilities where children are cared for, including private kindergartens and nursery assistants working out of their own or in the children's homes. Women like her and her mother, a widow who had long supported her family on her salary as a *nounous*, might no longer be able to find work, she feared. Naïma, a younger friend of Layla, who belonged to the same women's mosque group, put it even more strongly as we were discussing the topic outside the mosque: 'France is my home country, but the authorities make my life here unliveable. I want to work and flourish (*m'épanouir*), but I'm not allowed to.'

Many of the women I got to know in the Muslim women's group in the Quartiers Nord in 1996 seemed resigned to the impossibility of challenging the expansion of state control of religion into more and more domains of everyday life. Some, mainly younger Muslim Marseillaises – among them some from the women's mosque group where I did participant observation – felt compelled to act, however, and in 2011 founded the association *Collectif Agir pour nos Libertés* (Act for Our Freedoms) to protest what they saw as an attack on their religious freedom, and an exclusion of Muslim women from participation in the public life of French society.¹³ Around 50 women demonstrated against the *loi nounous* at the headquarters of the Socialist Party (PS) in Marseille, and the group also made an online petition to oppose what they saw as an attack on the right to religious freedom under the pretext of protecting *la laïcité*.¹⁴

The *Loi Nounous*

The nanny law proposal passed by the French Senate in 2011 was presented as a logical extension of the 2004 law,¹⁵ in that preschool children would enjoy the same 'protection' against religious influence as older pupils were said to be granted by the hijab ban in educational institutions. In France, the most common form of childcare is that involving *assistantes maternelles*, professionals paid to take care of children in their or the children's homes. *Assistantes maternelles* can also work through a local *crèche*, a day nursery for preschool children from three months old until they start nursery school at three years old (*école maternelle*) or primary school (*école primaire*) at six years old.¹⁶ Nursery assistants, often referred to as *nounous* (nannies), are licenced and inspected by Maternal and Child Protection, and nurseries and nursery assistants are subsidised by the state. In the Provence-Alpes-Côte d'Azur-region, 64% of children below the age of three are mainly looked after by their parents – most often the mother. Maternal assistants and family nurseries account for 18%, *crèches* 8%, and grandparents 4%. In addition to *assistantes maternelles* employed in kindergartens and family nurseries, in 2006 the region counted 8312 individually employed nursery assistants.¹⁷

The proposal to expand the 2004 law on religious neutrality in schools to childcare was promoted by representatives from the *Rassemblement Démocratique et Social Européen* (RDSE), which gathers senators not only from mainly leftist parties but also some from the right. Unlike the left/right division structuring historical opposition to Catholicism, recent debates over the headscarf and *laïcité* largely cut across the political spectrum (Lorcerie 2008; Itéanu 2013).¹⁸ An amended version of the law proposal was passed in the Senate towards the end of Sarkozy's presidency – after the Arab Spring had awakened fears in the French public of Islamist governments coming to power. The immediate backdrop was the so-called *Affaire Baby Loup*, in which a long-time employee at a private kindergarten in Yvelines was fired after she started wearing a hijab to work. In 2010, the Labour Tribunal of Mantes-la-Jolie upheld the decision to dismiss the employee, and her appeal was rejected by the Court of Appeals of Versailles in 2011. The legal proposition that was debated and voted in the Senate leaned heavily on the court's judicial reasoning around the Baby Loup case, and on the 2004 law on religious neutrality in school, that bans so-called ostentatious religious symbols.

Unlike the situation preceding the 2004 law, where authorities put considerable effort into defining and identifying particular phenomena as 'religious symbols', and into determining their meaning and compatibility with the principles of *laïcité* and public order (see e.g. Asad 2006; Bowen 2007; Scott 2007), the proposition to ban the veil of nannies could take the legally enshrined understandings of the *foulard islamique* as an ostentatious religious symbol as a point of departure. It was thus not so much what the hijab meant, or whether it was 'coerced' or 'freely chosen', that was the issue (a major issue in the 2004 debates), but rather the scope of public neutrality and where precisely to draw the line between the public and the private.

The Problem-space of *Laïcité*

The legal proposition to require 'religious neutrality' of caretakers, like the 2004 ban on religious symbols in schools, was framed in relation to France's particular form of secularism – *la laïcité*. *La laïcité* is enshrined in the Constitution of the current Fifth Republic, which declares France a secular state, proclaims the state's respect for all beliefs, and guarantees the equality of all citizens regardless of religion.¹⁹ As a legal principle, the most important source is considered to be the 1905 Law of Separation, separating church and state and intended to protect schools in particular from the strong influence of the Catholic Church (Vakulenko 2012). The 1905 law further declares that the Republic 'ensures freedom of conscience' and 'free exercise of religion' (*les cultes*), restricted by concerns with public order. Despite the frequent references to this law in the hijab debates, however, *laïcité* as a sustained project of government did not start or end with the 1905 law of separation (Fernando 2014b).

In the debates around the *loi noutous*, *la laïcité* was appealed to through various metaphors of origin ('the nation's foundation'), construction ('the cornerstone of the Republican edifice'), and the body ('the vertebral column of civil peace' and 'the heart of the Republic').²⁰ These metaphorical representations exemplify how *laïcité* has come to serve as a 'foundational myth': of national unity, of tolerance, of equality,

and of freedom (Gunn 2004; Selby 2011b). Nevertheless, anxiety about the stability and durability of this foundation are also apparent in the frequent references in the debate to the fragility of *laïcité* and to the need to reinforce it. While the need to draw a line between religion and politics, and the importance of values and rights, such as freedom, equality, and unity, as such were not disputed, there was considerable debate about how *laïcité* should be interpreted and its relation to law; hence, the proliferation of qualifiers such as *la laïcité de combat* (combative secularism), *la laïcité positive* (positive secularism), *la laïcité de sang froid* (composed secularism), *la laïcité aimable* (likeable secularism), *la laïcité de société* (social/public secularism), and *la laïcité de l'État* (state secularism).²¹

The contestedness of *laïcité* was pointedly referred to by my interlocutors during a discussion in the mosque one Saturday morning, involving around 10 of the women who participated in various mosque activities (Arabic school, women's group, food distribution, etc.). Hamida thus asserted that 'everyone has their own understanding of *laïcité*', while Nadia noted the incommensurability of different understandings: 'We don't have the same definition of *laïcité*, we don't even have the same definition of rights and equality. In fact, we don't understand each other.' To my Muslim interlocutors, *laïcité* seemed a less stable ground than suggested by the foundational metaphors dominating the debate. They challenged the idea that French public space was (religiously and culturally) neutral, and suggested that *laïcité* should be about ensuring religious freedom for all, rather than about limiting public expressions of religiosity. Layla, a woman in her thirties and a long-time member of *les Soeurs* and the women's mosque group, understood *laïcité* in a way that resonates with ideals of liberal tolerance: 'to me *laïcité* means that everyone lives her religion as she wishes as long as she doesn't bother others'. The delimitation of religion suggested by Layla – that it does not 'bother' others – is of course at the crux of freedom of religion and liberal tolerance discussions. In fact, an argument for banning the hijab has precisely been that it does 'bother' others by hurting their secular sensibilities. Legal definitions of religious freedom may be read as attempts to settle precisely the question of what harm (or bothering) implies, and when it can legitimately be used to determine the limits of religion in society.

Opposing the nanny law, a petition launched by the collective *Agir pour nos libertés* mobilised a globalised discourse of religious freedom by quoting Article 18 of the Universal Declaration of Human Rights (UDHR), and arguing that introducing a neutrality clause into structures of private childcare would violate freedom of religion (an argument also made in mobilising against the 2004 ban). As scholars have argued (see Sullivan 2007; Fernando 2014b), the understanding of religious freedom in the UDHR hinges on a distinction between the right to belief, which is absolute, and the right to practice, which is conditional. Layla's claim that everyone has the right to 'live' their religion challenges such a dichotomous conceptualisation of religiosity, and the attendant dichotomisation of the public/private and the religious/political. While she and other of my interlocutors were positively invested in *laïcité* as a principle of religious freedom protecting all citizens equally, they had increasingly come to associate its current deployments in the French context with discrimination, anti-Muslim racism, and Islamophobia. Imagining how she would 'speak back' to those who wanted to

legislate against her hijab, Layla made a long and passionate speech for me one day. She stated, among other things, that ‘We have to agree on at least one thing. I have as much right as you to my freedom. I don’t give a shit that to you religion is a submission put into place by humans.’ Defending equal rights for all, Layla’s statement indicates that for her freedom of religion is primarily a freedom *to* rather than a freedom *from*. As we will see in a moment, the latter understanding of freedom, as freedom *from* something, dominates the problem-space of French *laïcité*.²²

Agrama’s (2012a) concept of secularism as a problem-space (building on Scott 2004) analytically captures the complexity and contestedness of *laïcité* that emerge from my ethnography. Secularism as a problem-space is ‘a historical ensemble of questions and attached stakes’, anchored by the question of where to draw the line between religion and politics and what the limits of religion in society ought to be. Understanding secularism as a problem-space avoids both the tendency to exceptionalist and essentialising accounts of *laïcité* (i.e. claims that the French principle of *laïcité* is so unique as to be virtually untranslatable) and the rebuttal of *laïcité* as nothing but a newly invented tradition or an empty signifier. Instead, it attunes us both to convergences in the stakes associated with the religion/politics and public/private distinction in various contexts and epochs, and to the specificity of particular historically and socially situated secular formations or problem-spaces.

As the discussion below will show, in the legal debates around the nanny law, the limits of religion in society are drawn up not only in demarcating, but also in continually transgressing the demarcation of, the private and the public. The public/private distinction is not unitary, however, but protean. It does not comprise a single paired opposition, but a set of oppositions that are neither mutually reducible, nor completely unrelated (see Weintraub 1997). Given the centrality of the public/private distinction combined with its protean character, questions continually arise about how to identify religion and limit it to the private sphere, and about where precisely the line goes. While French secularism is characterised primarily by the concern to protect the public (universal) from private influence (particular identities and attachments), the public/private distinction is also crucial to the principle of religious freedom. As Fernando (2014a) argues, French secular rule both upholds and continually undermines the public/private distinction by making private religious practice public in order to control and regulate it.

The Permeable Child

While Asad (2006) is probably right that French secularism is not so much about neutrality as it is about identifying and controlling religion, the idea of the neutrality of the public sphere has increasingly been hailed in the hijab debates as a core value of *laïcité*.²³ The *loi noudous* accordingly proposed to ‘extend obligations of neutrality to private structures in charge of young children and to ensure the principle of *laïcité*’. In the proposal, freedom of conscience was mentioned as an ‘attachment of the Republic’, alongside *laïcité*. *Laïcité* appeared as both the ground and the limit for religious freedom, with the latter understood as ‘freedom from’ religious dominance as well as a ‘freedom of

belief.²⁴ This freedom from religious dominance is what necessitates its governing in public and its confinement to the private sphere. Defining religion's proper place while respecting freedom of conscience is thus considered both possible and necessary (Asad 2006: 498).

The arguments for the *loi nounous* leaned heavily on those made in the Stasi report²⁵ (which led to the 2004 ban on hijabs and other religious symbols in schools) that declared that the Secular State (*l'État laïque*) must protect individuals and ensure that no group or community can impose religious belonging on anyone. Whereas the 2004 law affirmed the public school's centrality in protecting young minds, the nanny law suggested that this protection needed to start earlier so that they could 'access the autonomy of judgment' (Stasi 2003: 14) and transcend particularistic affiliations (see Jansen 2013). The possibility to grow up in strict confessional neutrality was said by the representative from the RDSE to be 'indispensable for the apprenticeship of citizenship and liberty of conscience'. The Richard Report, commissioned to assess the law proposal, stated that 'The best interest of the child implies in fact ensuring a neutral environment because the first years of life are paramount.'²⁶ Responding to arguments from opponents of the law that children below the age of three may not even be aware of 'religious symbols' around them, the report called for research establishing more precisely children's sensibility to diverse messages and solicitations. The fact of young age was also said to be counterbalanced by the time spent in childcare facilities in which children would be exposed to religious indoctrination.

The debate seems to presuppose a particular kind of self, a bounded whole with a potential for achieving autonomy, but one exposed to external influences, in particular racial and religious others. Interestingly, the Richard Report uses the word 'imprégnation', which in the Larousse dictionary is defined as 'Pénétration lente et profonde d'une influence intellectuelle, idéologique' (a slow and profound penetration of an intellectual, ideological influence).²⁷ Neutrality, then, shields selves from religious influence seeping through the pores, so to speak. This effort to shield explains why it is not sufficient that Halima abstains from preaching while reading fairy tales to her daughter's classmates. Even if there is no preaching involved, the religiosity believed to be symbolised by the *voile islamique*, which is assumed to incorporate the actor's intention to display a religious symbol (see Asad 2006), is suspected of slowly and profoundly penetrating the children's minds and preventing them from transforming into autonomous individuals and citizens of the French Republic.²⁸ This conception of the permeable child could be read as going against the grain of Charles Taylor's (2007) claim that social imaginaries in the secular age solidify a 'buffered self' – a selfhood understood to be ontologically prior to and independent of its surroundings. In the French context, the secular buffering of the self is rather something that needs to be carefully cultivated and crafted. It is not against the world of spirits and forces that buffering is needed, though, but against a religiosity that transgresses not only the boundaries of the self, but also those between religion and politics, private and public, reason and belief and thereby threatens the unitary Republican 'body politic'.²⁹

Those who were sceptical of the law did not dispute children's need to be protected from religious influence. As one of the senators from the PS put it in the examination of

the law proposal, '[...] the child, from pre-school until he has acquired his full capacities for reasoning, must be shielded from influences likely to interfere with his total liberty of conscience and expression'.³⁰ One explanation for this insistence on the need to 'protect' children from religion could be a broader societal trend towards putting more emphasis on children's rights and integrity, as promoted in the 1989 Convention on Children's Rights that was ratified and implemented in France through various measures, such as an ombudsman for children. Interestingly, however, during the *loi noutous* debates, reference was only briefly made to children as rights bearers.³¹ Rather, as demonstrated by the quotes above, it seemed to be children in their capacity as future political citizens (*citoyen en devenir*) of the secular state who needed protection from religious influence that can permeate the self. The existence of an internal dimension that is held to be accessible from outside (the permeable self) not only makes protection against religion necessary, but it also opens up the universal prospect of cultivating and governing Republican selves – who achieve their 'total freedom of conscience and liberty' only as properly formed Republican citizens (see Asad 2006).

The idea that children are permeable, and that they should therefore be protected from religious influence, is not a new one within the problem-space of secularism, of course. Tracing the genealogy of this idea is beyond the scope of this article, but let me briefly unpack how central questions and stakes in the French problem-space of secularism have historically been articulated around children and their education.³² The French Revolution violently disrupted the patriarchal model that moulded the authority of the state on the authority of the family, and raised troubling questions about what was to replace it (Hunt 1992). In a situation where political loyalties could no longer be ensured through patriarchal authority, it became incumbent on the state to produce loyal citizens through the educational system. Creating citizens as Republicans began most evidently with France's children. The radicals and liberals inspired by the French Revolution suspected that Catholic schools indoctrinated anti-Republicanism into children, and argued that 'a new generation of true Republicans could only be created through a system of organized, national, lay public instruction' (Hunt 1984: 68). School was defined as a crucial space of transition, the place where national unity would be forged out of difference and where the children of peasants would become patriots (Scott 2007: 99). The goal of schooling was one of assimilation, of instilling Republican political identity into children of various backgrounds to ensure the body politic's future coherence – *la République une et indivisible*.

The introduction of compulsory education for children aged 6–13 years in 1882 was one among several measures in a systematic effort to create direct links of influence and control between the nation state and the individual citizen. The attempt to penetrate directly to the children without consulting parents and their spiritual authorities aroused widespread opposition and bitter fights, however (Lipset and Rokkan 1967: 15). Early childhood education became enmeshed in the clerical–anticlerical struggles:

As Catholics and secular Republicans sparred over who would shape the socialization of the nation's children, the boundaries between public and private, state and family, were redrawn. The socialization of very young children—between the ages of three and six—became part of national education policy. (Morgan 2002: 118)

According to Morgan, it was the conflict over clericalism – anti-clericalism and the efforts to shape Republican citizens – that drove the development of a public and universal preschool system in France, rather than a concern to accommodate working mothers or families in which both parents worked.

Despite continuities in the stakes associated with the question of where to draw the line between religion and society, and its articulation around children and their upbringing, we may also note certain important shifts. Without denying the crucial role that ‘the Muslim’ historically played as the ‘other’ or ‘enemy’ in French and European secular modernity (Anidjar 2003), it is evident that in conjunction with postcolonial immigration and more recently the so-called war on terror, concern has shifted from the Catholic Church and Christian minorities towards Islam and Muslim immigrants – and targeting Muslim religiosity as in special need of legal and para-legal regulation (see Selby 2011a). The central questions and stakes in the problem-space of *laïcité* increasingly pertain to what Norton (2013) and others have identified as ‘the Muslim question’; the figure of the Muslim has become the axis where questions of political philosophy and political theology, politics, and ethics meet in the twenty-first century. These shifts in the questions and stakes raised in the problem-space of *laïcité* were evident in the debate on extending the principle of religious neutrality to childcare. The proposition was framed in a language that targeted religious symbols in general, but it was obvious from the debates that Muslim women’s covering was again the main target. This targeting is also evident from local interpretations of existing legal regulations of religious symbols in Marseille. Yonus, a man of Maghrebi descent in his forties, who works as an educator in Marseille primary schools, told me about a conflict with the head of his unit, who had asked educators to report if they observed hijabs in schools. When Yonus pointed out that not only the hijab was banned by the 2004 law, but also all ostentatious religious symbols, the head of the unit retorted that it was clear that it was the hijab that authorities wanted them to focus on, and that that should be their priority. Although women covering tend to be regarded as victims of patriarchal power rather than as problematic actors themselves, their sartorial practice is enmeshed in a web of anxieties related to religious communitarianism, Islamism, and social problems in the *banlieues*, as well as the global political situation. Regulating women’s clothing practices may thus be proposed by proponents of the law as an answer to these anxieties and a guarantor of Republican values, social cohesion, and national unity.

Another related issue that has become more prominent in the French debate on secularism, and that also involves the drawing and redrawing of boundaries between the public/private, is that of gender equality and sexual freedom. Secularism is increasingly posited as the best guarantee of women’s sexual freedom and equality and as what distinguishes the West from the women-abusing and homophobic rest (Scott 2007; Fernando 2014b). Feminist critique is mobilised to authenticate a mainstream discourse about the *banlieues* as the ‘lost territories of the republic’³³ (Fernando 2014b: 201) and of Islam as a backward religion that works counter to the ideal of the citizen’s individual autonomy. Gender and sexuality have thus become important stakes in debates about secularism as the debates centre on the need to regulate Muslim women’s

practices of covering. While this concern was less explicit in the debates on the *loi nounous* than in previous debates on face veiling and against ostentatious religious symbols in schools, a closer reading of the legislative debates nevertheless reveals that the perception of the hijab as a sign of women's oppression was a *sous-entendu* for several of those involved. Indeed, the initial nanny-law proposal was sponsored in the Senate by Senator Françoise Laborde, the Vice President of the Delegation of Women's Rights and Equality of Chances between Men and Women, who in an interview (Libération 23 May 2013) on the *loi nounous* expressed her scepticism towards the headscarf: 'It is sort of the same question as with prostitution. There are choices that are non-choices.'³⁴

The *loi nounous* enrolled nurseries and the women working in them as agents for forging the kind of citizens that the secular Republic demands. The question of where to draw a line between public/private and state/family to 'protect' children from religious influence once again acquired a distinctive salience, articulating now with new stakes related to the Muslim question and issues of gender equality and sexual freedom. The need to 'protect' children, like the need to ensure gender equality and sexual freedom, legitimised the expansion of state power and legal regulation of religion into new domains of everyday life – including people's practices in their homes as potentially 'public' sites if their homes were used in childcare. This expansion of regulations and consequent redrawing of the boundaries between the public and the private were negotiated against another function of law in modern democracies. As mentioned, the citizen's right to privacy and fundamental freedoms was mobilised against the law proposal by the women in *Agir pour nos libertés* and by other actors opposing the law.

Secular Suspicion and the Public/Private Distinction

It was precisely in terms of concerns about intruding into the 'private' sphere of citizens that opposition to the *loi nounous* was articulated. Would the state not go too far if it imposed religious neutrality even on nannies who worked in their homes? And how could such a law be implemented without turning into a virtual surveillance of the private lives of citizens? In the revision of the *loi nounous* the law commission suggested reformulating the initial law proposal, as it was found to breach several constitutional principles, notably freedom of work, freedom of confessional expression, and contractual liberty. Whereas the initial proposal wanted to extend the principle of neutrality by banning nannies' use of religious symbols, the commission suggested that nannies should be legally obligated to inform their employer about their intention to manifest their religious belonging. Unless this intention had been stated in the work contract, nannies would have to abstain from displaying religious affiliation while caring for the children (Rapport Richard 2011: 28). The proposal thus contributes to the scrutiny of the motivations, desires, and intentions of veiled women that Fernando (2014a) theorises with Foucault (1978) as an 'incitement to discourse'. In order to make 'the private' more governable, Muslim women are incited to reveal their inner religious selves, motivations, and intentions (see also Asad 2006).

However, in the debates even this amended proposal raised a number of new legal controversies. How was one to decide which kinds of religious manifestations had to be declared in the working contract? Would the nanny be legally obliged to declare her intention to pray while the child was sleeping or to consume halal meat at lunch? While some argued that difficulties in determining what religious manifestations should be covered by the law made legislation impossible, others argued for 'leaving to the judges what belongs to the judges', thus further entrenching the juridification of religion.

Attempting to avoid breaching the constitutional principles mentioned above by introducing a legal obligation to declare ones 'intentions', the revised proposal further fixed the split between 'religious beliefs' and their 'manifestations' that made it possible during the 2004 debates to argue that regulating religious symbols only meant banning an outward manifestation of religious belief while still protecting inner freedom of belief. As several authors have noted regarding the 2004 ban, this understanding of religious freedom cements a particular understanding of religion, as propositional belief, privatised worship, and individualised faith, which hardly comports with most non-Protestant (including Catholic) understandings of religion (Brown 2012).³⁵ Through this split between private and public, inner and outer, religion is rearticulated in a manner that is commensurate with secular sensibilities and modes of governance. Making it mandatory to state one's intention to practise would further entrench the boundary between the internal conviction and its external manifestation, but would simultaneously relocate the line between them to the 'intention' declared before the act.

It should be noted that the idea of 'intention' here assumes a particular understanding of acts as a realisation of something one has planned to do. There is of course a different understanding of intention, which is related to deeper motivations and values. In Islamic tradition,³⁶ this second understanding of intention is captured by the notion of *niyat*, which can be translated as *intention, wish, will, or motive*, and is enjoined for many religious acts such as before daily prayers. For my Muslim interlocutors, sincere and pure intention is crucial to the virtue of religious practice and piety as well as to the individual's relationship to God, to herself, and to others. One could thus ask what stating one's intention not to wear a hijab or pray five times a day for the purpose of being employable as a nanny, or declaring one's intention to do so for contractual purposes, would imply theologically. In fact, many of the younger women would declare their desire to practise their religion more when time and circumstances allowed it. They understood wearing the hijab as a religious duty rather than as an expression of their religious belonging. The reframing of religious intention within a secular logic of legal regulation of religion thus requires a quite different attitude from practitioners towards their own religious practice.

A further twist is added to the question of where precisely to draw the line between the private and the public if one considers that wearing the hijab, as a religious practice, relates to a different, religiously sanctioned, division of social space. In Islamic tradition, the hijab is related to a classification of people into categories of those who are marriageable and those who are unmarriageable kin (*mahram*) with whom sexual

intercourse would be considered incestuous. Current usage of the term, including among my interlocutors in Marseille, distinguishes between those whom a woman can appear uncovered to, and those for whom she should cover. As Khadidja put it, the law was nonsense because nannies who look after children would not in any case wear a hijab in the house, since children are *mahram* – amongst those you can uncover yourself to. Only when children were picked up by a father or elder brothers (who were not *mahram*), or when nannies took children out to play in the park, would nannies likely wear a hijab. Regulating religious symbols for nannies working out of their homes would arguably thus primarily reinforce their attachment to the house, rather than provide a more ‘neutral’ environment when looking after children. The state’s fixation on the meaning of the hijab in relation to a particular understanding of religion (structured by the private/public distinction) and the secular requirement to determine contractually one’s intention to practise one’s religion thus fail to make sense of religious practices on their own terms.

Secular Futures and the Body Politic

The suggestion that the state should legally oblige religious subjects to make explicit their religious intentions and motivations by signing a contract may be seen as a practice of secular suspicion. Secularism – understood as a problem-space – is rooted in the activity of questioning, whereby distinctions between religion and politics are incessantly blurred as they are being drawn (Agrama 2012a). Agrama (2012a, 2012b) argues that suspicion of religion is the flip side of the freedom of religious belief in liberal secular regimes.³⁷ Protecting religious belief involves the need to ascertain the authenticity of beliefs, that they are not really just claims of political power or personal gains (Sullivan 2007; Agrama 2012a), or as Layla put it above ‘submission put into place by humans’. As mentioned, religious freedom in France does not primarily entail protecting religious beliefs, but rather protecting individuals and society from the undue power and influence of religion. The flip side of both these aspects of religious freedom is that religious practices are constantly scrutinised for ulterior motives. Such scrutiny might be seen as a kind of vigilance against power and its potential abuse. Islamic symbols are scrutinised for their transgression into the public sphere, and their possible implication in Islamisation, communitarianism, and patriarchal power. It is because the hijab gets fixed as a symbol of such ulterior motives and powers that the intention of nannies to wear it needs to be made public and governable. This particular mode of secular suspicion is inextricably linked to the juridification of religion, in that the law must investigate religious practices to assess their legitimacy or the presence of ulterior motives. The juridification of the private/public distinction, combined with the questioning of where precisely the line is to be drawn, generates a secular suspicion towards religion that is publicly displayed.

One ulterior motive that figures frequently in the French debate is that of communitarianism. As Itéanu (2005) notes, public display of what is perceived as cultural and religious difference entails suspicion of having ‘dropped French “society” for a different one’. According to Jansen (2013), suspicion against those who are different has partly

been a side effect of French citizenship – *la citoyenneté* – because it stimulated an assimilationist focus on detecting and destroying difference. This logic of assimilationist citizenship itself generates suspicion that even if difference is not publicly displayed, difference has not disappeared but been covered up and hidden. Lately, the idea of a united citizenry has increasingly come to be articulated in terms of the religious neutrality of the public sphere.³⁸ Thus, the introduction of Islamic religious practices into the public sphere, most visibly embodied through the headscarf, denotes a *de facto* questioning of the definition of the secular public sphere (Jouili 2009) of the unitary Republic. The suspicion generated by assimilationist citizenship and the juridification of religious freedom is further intensified by shifts in geopolitics and the ‘war on terror’, shifts which have propelled a ‘securitisation of Islam’ (see Cesari 2009) and brought new political urgency to the perceived need to control religion in the public sphere (see Bubandt and van Beek 2012). The hijab is thus seen to point not only to a religious difference as such, but also towards an underlying dangerous Islamism and communitarianism among French Muslims. The hijab-ban generation are interpellated as suspect Muslim subjects whose belonging in the French nation and loyalty to the French state are implicitly questioned (Silverstein 2008).

One striking feature of the secular suspicion directed at Muslim religious practice in France that has so far received little attention is its temporal configuration. In discussing the 2004 law, Asad noted in passing that the famous slogan ‘*la République est une et indivisible*’ (the Republic is one and indivisible) reflects a nationalist *aspiration*, not a social reality and that ‘[T]he “crisis” of *laïcité* seems to me uniquely embedded in a political struggle over two idealized models of France’s future [...]’ (2006: 508). Asad discusses these disputes over the future as a political struggle over centralisation of the state and its sovereign power to define the symbols that are allowed to inhabit public space. The preoccupation with unity and integration in the hijab debates may be seen as a part of the problem of centralised state control that requires those who are to be unified or integrated to submit to a particular normative order, argues Asad. Extending this line of thought, I argue that secular suspicion of religious symbols serves to mould and deepen people’s affective attachment to the nation and its secular future. Bowen (2007) suggests that the French idea of *laïcité* conveys a secular temporality, in which society is seen to move progressively towards the removal of religion from the public sphere through a process of secularisation. The metanarrative of secularisation as social progress crucially underpins French understandings of citizenship, *laïcité*, and efforts to regulate religion, and underpins affective reactions against religion and communitarianism as ‘backwards’. Displays of religious symbols in public are problematic because they signal a difference, or unassimilability, which also seems to disrupt secular Republican time.

In the debates on the *loi nounous*, the claim was not that the present social reality or – along more nostalgic nationalist lines – the ‘past’ of the French Republic, needed to be protected. Rather, it was, as a speaker from the conservative party *Union pour un mouvement populaire* (UMP) put it, about ‘ensuring the future of the values of the Republic’. It is arguably this orientation towards the future that makes children so crucial, as heirs to the future of the Republic, and women as linked to both biological and symbolic

reproduction of the nation state (see Yuval-Davis 1997). Great faith was once put in the power of the socialising institutions of the Republic, the school, the army, and the *banlieues*, to produce the citizenry the nationalist aspiration of the unitary Republic requires. The suspicion directed at particular forms of religious expression – and the efforts to exclude and regulate such expressions through legal and para-legal techniques that extend into the private sphere – index (and produce) loss of faith in the transformative capacity of the Republic’s socialising machine.

Using law to guarantee the aspirations of a unitary, secular Republican future, however, seems effectively to close down the possibility of alternative futures. To the hijab-ban generation, the legal regulation of Islam precludes them from seeing themselves as part of France’s future, defined as a singular future, for a singular social whole. The young women I met in *les Soeurs* in the 1990s hoped for and worked to bring about a situation where they could be Muslims and *citoyennes à part entière*. This hope was shared by some young women in the women’s mosque group I met in 2012/2013, but others seemed more pessimistic. With the current extension of state regulation of religion, and being positioned in public debate as symbolising the future-to-avoid, the hijab-ban generation finds it difficult to imagine futures of which they are a part. Layla thus lamented:

As if it wasn’t enough that they pushed us out of school, they are now pushing us out of working life. They say we need to integrate, but simultaneously squeeze us out of society. They have betrayed all the French values. The revolution was good for nothing.

Sequel: The *Affaires du Foulard Islamique* Continue

In May 2015, more than three years after it was passed in the Senate, the law proposal was finally adopted by the National Assembly in a modified form. The backdrop for the discussions in the Assembly was the developments in the Baby Loup case that had been through several courts since the suggestion to extend the principle of neutrality to childcare was first adopted by the Senate in 2011. In March 2013, the Social Chamber of the *Cour de Cassation*, the French supreme civil and criminal court, ruled in favour of the employee, declaring that her dismissal was a case of religious discrimination, and pointing out that because the Baby Loup kindergarten is a private institution whose staff does not provide a public service, the principle of secularism (*laïcité*) is not applicable.³⁹ The decision of the *Cour de Cassation* was publicly regretted by Manuel Valls, at the time interior minister of the socialist government.⁴⁰ A petition signed by a number of prominent politicians, academics, and public figures referred to the decision of the *Cour de Cassation* as a ‘moment of truth’ that revealed the need to consolidate and reaffirm *laïcité* in the face of its ‘dramatic deterioration’ and to ‘fill a legal vacuum’.⁴¹ President Hollande called on the recently established *Observatoire de la laïcité*,⁴² to examine urgently the question of how to frame a new law to regulate the display of religious symbols in private childcare facilities.⁴³ A proposition to change the labour code so that internal rules of enterprises and associations could regulate the wearing of religious symbols and the practices manifesting religious belonging was debated in the National Assembly in June 2013,⁴⁴ but although there was broad agreement on the need to

safeguard *laïcité* and to protect children from undue religious influence, none of the suggested articles were adopted at the time.

In summer 2014, the *Cour de Cassation* annulled the ruling of its own social chamber in the Baby Loup case.⁴⁵ The Court referred to the labour code according to which private enterprises and associations can restrict employees' freedom to manifest their religious convictions if it is justified by the nature of the task and if the measure is proportionate to the goal. The Court's verdict found these criteria fulfilled in the Baby Loup case, but did not answer the question about a general ban on religious symbols in private sectors open to the public or the question of the extension of the principle of neutrality to childcare facilities. In the debates on the nanny law in the National Assembly in May 2015, the Baby Loup case was used to justify the need to 'expand' the application of *laïcité* to 'certain private structures'.

The nanny law that was adopted by the National Assembly in May 2015 was modified in important ways, however.⁴⁶ The revised law text makes clear that services and facilities that receive children under six years old (including vacation and recreational centres) must abide by the obligation of religious neutrality in so far as they benefit from a public subsidy for their childcare activities. Importantly, the Assembly excluded private religious nurseries (*à character propre*) and private family-run nurseries from the application of the law. Most notably, the Assembly suppressed the 3rd article of the law passed by the Senate in 2011 – the one extending the principle of religious neutrality to *nounous* working out of their homes.

This sequel to the *affaires du foulard islamique* seems to indicate that there are indeed certain limits to how far France will go in using the law to regulate religion in the name of *laïcité*. The public/private distinction is being redrawn by state efforts to regulate religion; but while state power expands into areas that were previously considered private, this expansion is simultaneously negotiated with reference to principles of religious freedom and individual liberty. Regulating the religious practice of *nounous* in their own homes, would, as the women in *Agir pour nos libertés* have argued all along, violate the right to religious freedom, as specified in Article 10 of the *Declaration of the Rights of Man and of the Citizen* (1789) and Article 9 of the European Convention on Human Rights (1953). However, given that gradually expanding *laïcité* to new domains was the stated goal of several delegates to the National Assembly, one might expect new legal initiatives to follow suit. Insofar as Muslim women who cover continue to be interpellated through these legal initiatives and debates as problematic subjects for the unitary secular future of French society and their religious practices are the subject of suspicious, secular scrutiny, Isabell – Nanny of the Year 2012 – and the women of the hijab-ban generation will continue to feel excluded by *laïcité* and struggle to imagine futures for France of which they too are a part.

Notes

1. An opinion poll from March 2013 shows 84% of the French to be against allowing women who work in private sectors open to the public to wear a headscarf (*voile*) (<http://www.lefigaro.fr/actualite-france/2013/08/08/01016-20130808ARTFIG00457-une-majorite-de-francais-contre->

[le-voile-islamique-a-l-universite.php](#) (Accessed 29 August 2016). The emergence of Muslims as a category of knowledge in surveys and opinion polls (see Johansen & Spielhaus 2012) is crucial to the governing of Islam in contemporary Western Europe.

2. Manuel Valls, then deputy mayor of Evry, used this expression in a comment to the Baby Loup affair, where he spoke about a 'juridical void' concerning the regulation of religion 'where there are children' (*L'Express*, November 8, 2010. http://www.lexpress.fr/actualite/societe/valls-veut-interdire-le-voile-la-ou-il-y-a-des-enfants_934728.html) (Accessed 29 August 2016).
3. *Laïcité*, France's particular form of secularism, will be discussed further along in the article.
4. The 2004 law prohibits the display of any 'ostentatious religious symbols' in public schools and while exercising a public function – including veils, kippas, and large crosses worn around the neck. The 2009 law bans the niqab and other forms of face covering from public space (see e.g. Amir-Moazami 2001; Gunn 2004; Asad 2006; Bowen 2007; Scott 2007; Vakulenko 2012; de Galement 2014; Fernando 2014b). In July 2014, the European Court of Human Rights upheld France's ban on face-covering, in a case brought by a woman who said that her freedom of religion was violated by the ban.
5. Proposition de loi n° 56 rectifiée (2011–2012) [Left alone since in French they might not use the en dash.] de Mme Françoise Laborde et des membres du groupe RDSE, Étendre l'obligation de neutralité au personnel de droit privé accueillant des enfants. In public debate and by my interlocutors, the law was usually referred to as the 'loi anti-nounous voiles' or simply the 'loi nounous'. For the sake of simplicity, I use the latter throughout this text.
6. A pseudonym chosen because the women often referred to each other as 'sisters'.
7. The Conseil d'État is a judicial and advisory body. It assists the executive with legal advice and is the supreme Court for administrative justice.
8. The Zones d'Éducation Prioritaires (ZEP) were created in 1981 to help schools in precarious urban areas deal with social and educational difficulties and counteract socio-economic inequality. They were replaced in 2006–2007 by other arrangements, and most recently revised in 2014. The schools in *les quartiers nord*s have lower rates of students passing the national secondary exam and overall lower graduation rates than the national average.
9. This position was confirmed by the Conseil d'État in 1999, which declared that while the hijab was not in itself ostentatious and contrary to *laïcité*, pupils wearing hijabs could legitimately be denied to participate in particular classes for security and health reasons (Fregosi 2008: 449).
10. In Marseille, people of North African background are usually referred to as 'les Arab' in popular parlance. The less derogatory 'les Maghrébins' is also used, as well as designation by religious identity: 'les Musulmans'. As Fassin (2006) has noted for the Parisian context, even in Marseille there is a slippage between such terms and designations related to locality, such as *banlieusard/banlieusarde* – a resident of the suburbs.
11. At some schools in Marseille, schoolyard guards make sure the pupil's attire conforms to school regulations.
12. The *Code de laïcité et liberté religieuse* (Collection of legal texts on secularism and religious freedom), presented by Interior Minister Claude Guéant in 2011, concluded that although there would be no legislation on this issue, schools would be instructed on the preferability of having school trips accompanied by non-veiling mothers. In 2012, Manuel Valls, at the time Interior Minister for the Socialist Party, confirmed this position on *les mamans accompagnantes* (see Barras 2014). While opponents argued that the principle of religious neutrality only applied to public functionaries, proponents of a ban argued that insofar as parents participate in the functions of the public services, they should also be subject to the principle of neutrality governing them. In December 2013, the State Council concluded that public schools can demand that accompanying parents abstain from displaying religious symbols. <http://tempsreel.nouvelobs.com/societe/20131223.OBS0484/meres-voilees-en-sortie-scolaire-le-conseil-d-etat-rend-son-avis.html> (Accessed 29 August 2016). In January 2014, President Hollande denied the need for a specific law regulating school outings, with reference to the opinion of the State Council and the discretionary power of the educational establishments to decide on a case-to-case basis. <http://>

tempsreel.nouvelobs.com/societe/20140121.OBS3132/nice-interdite-de-sortie-scolaire-une-mere-voilee-contre-attaque.html (Accessed 29 August 2016).

13. Protests were voiced from a number of Muslim and anti-racist organisations such as the CFCM (Conseil français du culte musulman), the CCIF (Collectif contre l'islamophobie en France), the Coordination contre le racisme et l'islamophobie (CRI), the Étudiants musulmans de France (EMF), the Collectif Mamans toutes égales (MTE), and the Association de sensibilité, d'information et de défense des consommateurs musulmans (ASIDCOM).
14. Given the number of Muslims in Marseille, the numbers mobilising at such protests may be seen as surprisingly small. Although many Muslim women I talked to share the outrage of the *Collectif*, most of them did not actively oppose this and other legal regulations of female covering. The petition gathered some 1000 signatures.
15. See end Note 4.
16. Attendance in school in France is not mandatory until age six, but more than 95% of parents in France enrol their children in at least two years of the *maternelle*, which is part of the universal education system.
17. INSEE, National Institute of Statistics and Economic Studies (2007).
18. The 2004 and the 2009 laws were both sponsored by the ruling conservative party *Union pour un mouvement populaire* (UMP) and supported by the PS.
19. Constitution of 4 October 1958.
20. These expressions appear in the debate on extending the principle of religious neutrality to private enterprises and associations in the National Assembly (Assemblée Nationale, Compte Rendu Intégral N° 71, 2013).
21. These expressions have been launched at various points in the debate by central politicians, academics, and commentators. Nicola Sarkozy, for one, during the first part of his presidency insisted on a positive secularism that valued the Christian roots of France, while he later moved to what some referred to as 'la *laïcité* restrictive'. Jean Galvany, member of *l'Observatoire de la laïcité*, suggested in 2013 in the Observatory's report that secularism had to be 'friendly' (*aimable*), while Professor of the History and Sociology of *laïcité* Jean Baubérot called for keeping calm and composed on the issue of *laïcité* (*la laïcité de sang froid*). These are only a very few examples of the long list of qualifiers that have been used in the problem-space of French secularism to signal and pin down different interpretations of the concept.
22. Although she contests the idea that religion is simply a form of dominance imposed by humans, Layla would not contest the idea that religion implies submission to God. The concept of freedom in liberal and Republican traditions is too complex to run through here, but there is an obvious resonance with the classic distinction between positive and negative freedom (see Berlin 1969), and the idea of Republican freedom as 'freedom from dominance' (see Pettit 1999).
23. See, for instance, Balibar (2004) for a critical discussion of how marks of neutrality are obviously not themselves 'neutral'.
24. 'C'est bien parce qu'elle est laïque que la République respecte toutes les croyances', said Éric Ciotti, rapporteur to the constitutional law committee, during the session in the National Assembly (Assemblée Nationale, Compte Rendu Intégral N° 71, 2013).
25. A number of reports have been devoted to religion in the public sphere since the headscarf affairs erupted, of which the 2003 Stasi Commission has been the most discussed (see Selby 2011b).
26. 'On peut estimer que l'intérêt supérieur de l'enfant implique en effet de lui assurer un environnement neutre car les premières années de vie sont primordiales' (Rapport Richard 2011: 21)
27. The French word *imprégnable* is difficult to translate into English, since the English *impregnable* has the opposite meaning of being impenetrable. I have chosen the concept of 'permeable' in English to avoid this confusion.
28. Other examples of those worries are the increasing concern with non-Muslims consuming halal food, as seen in the controversies surrounding the Quick hamburger chain's launching of halal stores, and in debates over halal meat in school cafeterias (see Wright and Annes 2013). Some

discursive renderings also construct ‘imprégnation’ as more intentional forms of ‘stealth Islamisation’.

29. Thanks to Birgitte Schepelern Johansen for pointing this out to me.
30. ‘[...] l’enfant, depuis la maternelle jusqu’au moment où il a acquis sa pleine capacité de raisonnement, doit rester à l’abri des influences susceptibles de contrarier sa totale liberté de conscience’ (Rapport Richard 2011: 35). According to this senator, however, the obligation of neutrality should be limited to public educational services and should not be legislated for the private sector.
31. The law proposition references an opinion by the High Council of Integration that the International Convention of Children’s Rights gives children a right to ‘neutrality and impartiality’.
32. For a nuanced account of the ideas of schooling among early pedagogues of the Republic, see Jansen (2013: 213ff).
33. As Fernando (2014b) notes, this expression was used as the title of a collection of essays (Brenner 2002) that had significant influence on public discourses on headscarves and conditions in the *banlieues*.
34. ‘C’est un peu la même question avec la prostitution. Il y a des choix qui sont des non-choix’, (Libération 23.05.2013 ‘Françoise Laborde, la nounou de la laïcité’, by Alice Gérard). See Jacobsen and Stenvoll (2010) for a discussion of the constitution and function of functions of these two prototypical female victims.
35. Article nine on Freedom of thought, conscience, and religion of the European Convention on Human Rights, which is directly applicable in France, also distinguishes between the freedom to have a religion and the freedom to manifest it, and subjects the latter to certain limitations, including the protection of public safety, public order, health and morals, and the protection of the rights and freedoms of others. In current ECHR jurisprudence, the hijab is explicitly recognised as a ‘religious manifestation’, and as such as protected under article nine of the convention.
36. I use the concept Islamic tradition here in line with Asad’s theorising of Islam as a discursive tradition (see Asad 1986; Jacobsen 2011: 35–40 for a discussion of the concept). This understanding of Islamic tradition avoids essentialising and homogenising Islam, while simultaneously acknowledging a certain coherence to Muslim discourses that address themselves to particular Islamic practice in the present through conceptions of an Islamic past and future. The notion of *niyat* – its meaning and importance – is differently configured in different Muslim discourses; see for example Mahmood (2005) on the Egyptian piety movement or Torab (1996) on Shi’ite women in Iran,
37. Agrama (2012a) also suggests that secularism as a problem-space is rooted in an activity of questioning.
38. This is not to say that the public sphere *is* religiously neutral, but that the idea of a neutral public is crucial to the idea of unity and that certain markers are seen as neutral and universal, whereas others are seen as indicating difference and particularism. See note 23.
39. *Cour de Cassation* (Social Chamber) 19-03-2013 Association Baby Loup N. 536.
40. (7 février 2013 à l’antenne d’Europe 1). Manuel Valls, then Interior Minister, confirmed his previous position (see note 2) stating that he ‘regret[s] the decision of the Supreme Court [*sic*] today on the nursery Baby-Loup on this challenge of secularism’. <http://lajeunepolitique.com/2013/03/21/laicite-and-baby-loup-revisited> (Accessed 29.08.2016).
41. *Marianne* (22 Mars 2013). http://www.marianne.net/Laicite-aux-elus-de-nous-sortir-de-la-confusion-_a227576.html (Accessed 29 August 2016).
42. A consulting body established in spring 2013, with a mandate to inform, transmit (through the educational system), and protect the principle of *laïcité*.
43. Mme Laborde, the author of the legal proposition of the *loi nounous*, is a member of the observatory.
44. 1er séance du 6 Juin 2013.
45. It is not so rare for the *Assemblée Plénière* to go against the decisions of one of its chambers.
46. Assemblée Nationale, Rapport N° 2614, 2015.

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References

- Agrama, Hussein. 2012a. *Questioning Secularism: Islam, Sovereignty and the Rule of Law in Egypt*. Chicago, IL: University of Chicago Press.
- . 2012b. The Politics of Religious Freedom: Religious Freedom as a Binding Practice of Suspicion. Retrieved from <http://blogs.ssrc.org/tif/2012/09/11/religious-freedom-as-a-binding-practice-of-suspicion/> (Accessed 29 August 2016).
- Amir-Moazami, Schirin. 2001. Hybridity and Anti-Hybridity: The Islamic Headscarf and its Opponents in the French Public Sphere. In *Muslim Traditions and Modern Techniques of Power*, edited by Armando Salvatore. pp. 307–328. Münster: LIT Verlag.
- Anidjar, Gil. 2003. *The Jew, the Arab: A History of the Enemy*. Stanford, CA: Stanford University Press.
- Asad, Talal. 1986. *The Idea of an Anthropology of Islam, Occasional Paper Series*. Washington, DC: Berlincenter for Contemporary Arab Studies, Georgetown University.
- . 2003. *Formations of the Secular: Christianity, Islam, Modernity*. Stanford, CA: Stanford University Press.
- . 2006. Trying to Understand French Secularism. In *Political Theologies*, edited by Hent de Vries. pp. 495–527. New York, NY: Fordham University Press.
- Balibar, Etienne. 2004. Dissonances within *Laïcité*. *Constellations*, 11(3):353–367.
- Barras, Amélie. 2014. *Refashioning Secularism in France and Turkey: The Case of the Headscarf Ban*. New York, NY: Routledge.
- Berlin, Isaiah. 1969. *Four Essays on Liberty*. Oxford: Oxford University Press.
- Bowen, John R. 2007. *Why the French Don't Like Headscarves: Islam, the State, and Public Space*. Princeton, NJ: Princeton University Press.
- Brenner, Emmanuel (ed.). 2002. *Les territoires perdus de la république: Antisémisme, racisme, et sexisme en milieu scolaire*. Paris: Mille et Une Nuits.
- Brown, Wendy. 2012. Civilizational Delusions: Secularism, Tolerance, Equality. *Theory & Event*, 15(2). Retrieved from <http://muse.jhu.edu/> (Accessed 25 July 2014).
- Bubandt, Nils Ole & Martijn van Beek. 2012. Varieties of Secularism – in Asia and in Theory. In *Varieties of Secularism in Asia: Anthropological Explorations of Religion, Politics and the Spiritual*, edited by Nils Ole Bubandt & Martijn van Beek. pp. 1–28. London: Routledge.
- Cesari, Jocelyne. 2009. Securitization of Islam in Europe. In *Muslims in the West after 9/11: Religion, Politics and Law*, edited by Jocelyne Cesari. pp. 9–28. London: Routledge.
- Fassin, Didier. 2006. Nommer, interpréter: le sens commun de la question raciale. In *Représenter la société française*, edited by Eric Fassin, Didier Fassin & Collectif. pp. 19–34. Paris: La Découverte.
- Fernando, Mayanthi L. 2014a. Intimacy Surveilled: Religion, Sex, and Secular Cunning. *Signs*, 39(3):685–708.
- . 2014b. *The Republic Unsettled. Muslim French and the Contradictions of Secularism*. Durham, NC: Duke University Press.
- Foucault, Michel. 1978. *History of Sexuality, vol. 1, An Introduction*. New York, NY: Pantheon.
- Fregosi, Franck. 2008. *Penser l'islam dans la laïcité*. Paris: Fayard.
- de Galembert, Claire. 2014. Forcer le droit à parler contre la burqua. Une judicial politics à la Française. *Revue Française de Sciences Politiques*, 64(4):647–668.
- Gunn, Jeremy. 2004. Religious Freedom and *Laïcité*: A Comparison of the United States and France. *Birmingham University Young Law Review*, 433:420–506.
- Hunt, Lynn Avery. 1984. *Politics, Culture, and Class in the French Revolution*. Berkeley and Los Angeles, CA: University of California Press.
- . 1992. *Family Romance of the French Revolution*. Berkeley and Los Angeles, CA: University of California Press.

- INSEE, Provence-Alpes-Côte d'Azur Femmes en Paca. 2007. *Vie sociale: garde d'enfants*. Retrieved from http://www.insee.fr/fr/themes/document.asp?ref_id=14403®_id=5&page=dossier/fempac_a07w/ch7vie.htm (Accessed 29 August 2016).
- Itéanu, André. 2005. A Perfect Individual: Violence and Assimilation in the French Suburbs. In *Youth, Otherness and the Plural City: Modes of Belonging and Social Life*, edited by Mette Andersson, Yngve G. Lithman & Ove Sernhede. pp. 107–138. Göteborg: Daidalos.
- . 2013. The Two Conceptions of Value. *HAU Journal of Ethnographic Theory*, 3(1):155–171.
- Jacobsen, Christine M. 2011. *Islamic Traditions and Muslim Youth in Norway*. Leiden: Brill.
- Jacobsen, Christine M. & Dag Stenvoll. 2010. Muslim Women and Foreign Prostitutes. Victim Discourse, Subjectivity and Governance. *Social Politics, International Studies in Gender, State and Society*, 17(3):270–294.
- Jansen, Yolande. 2013. *Secularism, Assimilation and the Crisis of Multiculturalism; French Modernist Legacies*. Amsterdam: Amsterdam University Press.
- Johansen, Birgitte & Riem Spielhaus. 2012. Counting Deviance: Revisiting a Decade's Production of Surveys among Muslims in Western Europe. *Journal of Muslims in Europe*, 1(1):81–112.
- Jouili, Jeanette. 2009. Negotiating Secular Boundaries: Pious Micro-practices of Muslim Women in French and German Public Spheres. *Social Anthropology*, 4(17):455–470.
- Lipset, Seymour M. & Stein Rokkan. 1967. Cleavage Structure, Party Systems, and Voter Alignments: An Introduction. In *Party Systems and Voter Alignments: Cross-National Perspectives*, edited by Seymore Lipset & Stein Rokkan, 1â 64. New York, NY: Free Press.
- Lorcerie, Françoise. 2008. La 'Loi sur le voile': une entreprise politique. *Droit et Société*, 68:53–74.
- Lorcerie, Françoise & Vincent Geisser. 2011. *Muslims in Marseille* (Report for the Open Society At Home in Europe project).
- Mahmood, Saba. 2005. *Politics of Piety: The Islamic Revival and the Feminist Subject*. Princeton, NJ: Princeton University Press.
- Morgan, Kimberly J. 2002. Forging the Frontiers between State, Church, and Family: Religious Cleavages and the Origins of Early Childhood Education and Care Policies in France, Sweden, and Germany. *Politics & Society*, 30(1):113–148.
- Norton, Ann. 2013. *On the Muslim Question*. Princeton, NJ: Princeton University Press.
- Pettit, Phillip. 1999. *Republicanism: A Theory of Freedom and Government*. Oxford: Oxford University Press.
- Richard, Alain. 2011. Rapport n° 144 (2011-2012) de M. Alain Richard, fait au nom de la commission des lois, déposé le 30 novembre 2011, Proposition de loi visant à étendre l'obligation de neutralité aux structures privées en charge de la petite enfance et à assurer le respect du principe de laïcité. Retrieved from http://www.senat.fr/rap/11-144/11-144_mono.html (Accessed 29 August 2016).
- Scott, David. 2004. *Conscripts of Modernity: The Tragedy of Colonial Enlightenment*. Durham, NC: Duke University Press.
- Scott, Joan W. 2007. *The Politics of the Veil*. Princeton, NJ: Princeton University Press.
- Selby, Jennifer A. 2011a. French Secularism as a Guarantor of Women's Rights? Islam and Gender Politics in a Parisian Banlieue. *Culture and Religion*, 12(4):441–462.
- . 2011b. Islam in France Reconfigured: Republican Islam in the 2010 Gerin Report. *Journal of Muslim Minority Affairs*, 31(3):383–398.
- Silverstein, Paul A. 2008. The Context of Antisemitism and Islamophobia in France. *Patterns of Prejudice*, 42(1):1–26.
- Stasi, Bernard. 2003. Commission Stasi, 'Commission de réflexion sur l'application du principe de laïcité dans la République: rapport au Président de la République'. Retrieved from <http://www.ladocumentationfrancaise.fr/var/storage/rapports-publics/034000725.pdf> (Accessed 29 August 2016).
- Sullivan, Winnifred. 2007. *The Impossibility of Religious Freedom*. Princeton, NJ: Princeton University Press.
- Taylor, Charles. 2007. *A Secular Age*. Cambridge, MA: Harvard University Press.
- Torab, Asam. 1996. Piety as Gendered Agency: A Study of Jalaseh Ritual Discourse in an Urban Neighbourhood in Iran. *The Journal of the Royal Anthropological Institute*, 2(2):235–252.

- Vakulenko, Anastasia. 2012. *Islamic Veiling in Legal Discourse*. London: Routledge.
- Weintraub, Jeff. 1997. The Theory and Politics of the Private/Public Distinction. In *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy*, edited by Jeff Weintraub & Krishan Kumar, 1à 43. Chicago, IL: University of Chicago Press.
- Wright, Wynne & Alexis Annes. 2013. Halal on the Menu? Contested Food Politics and French Identity in Fast-Food. *Journal of Rural Studies*, 32:388–399.
- Yuval-Davis, Nira. 1997. *Gender and Nation*. London: Sage.