

Religions and Human Rights in France

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Abstract In this chapter some paradoxes of the human rights philosophy in France are examined: France has proclaimed itself “the cradle of human rights” since the revolution of 1789 which established the basic rights (freedom of thought, association and assembly) in response to the King’s absolutism of the “Ancient Regime”.

At first the Catholic Church condemned the secularised “Declaration of Human Rights” but since it was asserted that they have their roots in the Bible the second and third generation human rights are (for the most part) accepted. Even though, France is sometimes condemned by the European Court of Human Rights for harassing minority religious groups and for failing to grant them the same rights as the traditional churches. Muslims and Jews are also in conflict with the State about the wearing of visible religious symbols in public. Also religious liberties are not mentioned as such in the laws but only as “public liberties”. A “right of religions” does not exist, it is instead being built on decisions of French courts and the Council of State, the European Court of Human Rights or the European Court of justice.

Introduction

Examining the links between the Human Rights and the religions in France can show very interesting, insofar as France proclaims itself the “Birthplace of Human Rights”.

The first recognized rights are freedom rights (for instance: the freedom of expression, of thought, the right of meeting, of association...). They establish basic rights claimed by the Revolutionaries, in response to the King’s absolutism in the “*Ancien Régime*”. They can be individual or collective, and offer the individuals some autonomy as well as the possibility of acting freely.

Human rights are nevertheless no longer limited to those proclaimed by French Revolutionaries: a second generation of rights appeared. They contribute to the dignity of the individual, yet, unlike the freedom-rights, they have a cost, requiring the

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State's intervention for concrete implementation. For that reason, they were called 'claim rights'. It is a matter of social and economic rights, such as the rights to education, to health, to work, to a home, to social security, the right to form a trade union, the right to strike. They are described as fundamental rights. In France, they were inscribed in the preamble to the Constitution of the October 27, 1946. That assertion of new rights coincided with the creation of the Providence State, namely, a more socially and economically interventionist State, in order to provide social welfare.

The history of human rights does not stop here. From the 1970s on, a third generation was evoked, that would exceed the 'freedom rights' and 'claim rights'. They aim at establishing an international solidarity, for the human race (e.g. the right to a healthy environment, the rights of future generations, the right to humanitarian interference, to peace, to economic development). They also belong to the ethical order, for they focus upon rights such a right to peace or to a healthy environment, to a fair development of nations. To jurists, their aims can sometimes seem imprecise.

To the Declaration of Human Rights was added in 1959 a Declaration of Children's Rights, then an international convention on Children's Rights (1989), that was ratified by France.

The religions present in France took their stand upon the whole of human rights. We are going to show their relations.

The *Declaration of Human Rights* was proclaimed on August 26, 1789 during the first French Revolution. The Marquis de La Fayette, who inspired it together with Sieyès and Mirabeau, put it forward to the French National Assembly. It was then placed at the beginning of the Constitution of September 3, 1791, proclaiming the five following rights: freedom, equality, right to ownership, right to security, to resist oppression. French revolutionaries claim its fatherhood, though such ideas can be found in the declaration of Arbroath (1314), in the British revolution, in the seventeenth century (Hill 1977), or in the American Declaration of Independence of 1776.

The Declaration of Human Rights was not immediately implemented. Its main principles only materialized when judges referred to them in dispensing justice, as when lawmakers drew their inspiration from them to write republican laws. Some principles, like the political rights that allow taking part in power—the right to vote and be elected—were not obtained at once (Ferrand 2003, p. 50). The transformation of human rights into human law, from natural right into positive right was not immediate. Human rights are useful to mankind only when they are recorded in laws that shape their lives: the same is true with the *European Human Rights Convention*, which, to become effective, must be translated into the national legislations.

The 1789 Declaration of Human Rights was promoted by anticlerical revolutionaries and was ideologically prepared by philosophers from the Enlightenment (Aufklärung), like Voltaire, Rousseau, Diderot, who can be called 'secularist humanists' atheists and deists. The Declaration is wholly secularist, it does not refer either to God or to religious morals. The French Republican Revolution was antireligious, anti-Catholic principally, because of its desire to abolish that privileged link between the Roman Catholic Church and the monarchy. In 1790, revolutionaries suppress monastic vows; they pronounce the Civil Constitution of the Clergy (July

12, 1790) and more than fifty per cent of the clergymen, the constitutional clergy, gave their pledge to the constitution at the beginning of 1791. It is no wonder that the head of the Catholic Church condemned the Revolution and excommunicated the French Nation on the July 22, 1790.

In 1791, Pope Pius VI (1717–1799) condemned the *Declaration of Human Rights* in his encyclical letter ‘*Adeo nota*’. According to him, its purely philosophical nature could not pretend to substitute itself for the “Natural Right” and the rights of the Church: “It is sufficient that we recall the seventeen articles on human rights, that are a mere faithful repetition of the declaration made by the National Assembly of France of those same rights, so contrary to religion and society” (Pius VI 1791). Pius IX (1792–1878) reinforced this affirmation in these terms: “One can clearly see why some men, not taking into account the most certain principles of sane reason, dare publish that the people’s will, manifested by what is said to be the public opinion or else, constitutes the supreme law, independent from all divine or human law” (Pius IX 1864; Docteur Angélique; Forum catholique 2012).

Forms of Human Rights During the “*Ancien Régime*” and Religions

Through the *Declaration of Human Rights* (1789) French revolutionaries wished to improve French people’s lives. It does not mean that these people had no rights during the ‘*Ancien Régime*’—as was named the monarchic period before 1789: the kings of France had granted guarantees that were equivalent to certain human rights.

Kings tried to impose equity and justice rules by abolishing local “bad customs”, such as excessive fiscal taxes imposed by the lords upon their subjects. Protection of private property had been granted the French. Humbert II (1312–1351) forbade judges to confiscate the properties of the sentenced, thus imposing a right to inalienable property. Kings took on the duty of eradicating servitude. Like the revolutionaries later, the kings endeavoured to reconcile individual liberties with public interest, “*La causa publica*” (Mathieu 2003, p. 28).

The *Ancien Régime* acknowledged the right to human dignity, inspired by Christian thinkers like Lothaire (1160–1216), author in 1195 of a treatise upon human destitution, who became pope, like Jean Pic de la Mirandole (1463–1494) or Pascal (1623–1662). The right to dignity was also expressed in law under the form of “guarantees”—the expression ‘human rights’ not yet being in use. Jurists based themselves on a natural liberty, in particular, a self-property excluding slavery, in order to acknowledge a right to freedom. They also acknowledged a right to ownership, though that had been more discussed.

Those rights were taken up and turned into fundamentals in 1789 by the revolutionaries, who took up rights advocated by Christians (Fierens 2003, p. 172). The *Ancien Régime* nevertheless did not know the liberty to marry, nor did it know equality, nor the right to security. It did not know freedom of conscience either, and the absence of religious freedom that belongs to it, was the source of conflicts.

Roman Catholicism Against Protestantism

A series of Edicts governed the relations between the Kingdom and Protestantism. The imprint of Catholic thinking can be found in their writing, provoking advances or postponements. For instance, the Edict of Tolerance, signed by Louis XVI on November 7, 1787, granted equality of persons in front of the civil status, therefore, it was no longer necessary to be a Catholic—the official religion in the kingdom of France—which meant converting to Catholicism to obtain birth, marriage or death certificates. It benefited Jews—except in the East of France where the Parliament of Metz refused the Edict—and Protestants. The Edict of Saint Germain, called the ‘Edict of Tolerance’ (1562) granted the freedom of conscience, the Edict of Beaulieu (1576) acknowledged Protestantism, but its impact was reduced by the Edict of Nemours (1585) which brought a recoil in the Protestants’ freedom of worship. The Edict of Nantes (1598), concerned with “Civil Tolerance”, accepted Protestants, but was revoked by the Edict of Fontainebleau (1685).

One can see that, depending on royal edicts, Protestant freedom of worship increased according to the King’s benevolence, or was reduced under the pressure of the Catholic hierarchy.

Another evidence of the persecution of the Protestants is that in 1681, Louis XIV closed the Academy of Sedan, where ministers were trained. In 1561–1662, Catholics formed leagues hostile to Protestants and attacked them. On August 24, 1572, fanatical Catholics slaughtered three thousand Protestants in Paris. The slaughter spread to the whole country, causing almost ten thousand more casualties (Cabanel and Cassan 1997, p. 17 f.).

Protestantism benefited from the institution of the freedom of thought and worship included in the *Declaration of Human Rights*. In the nineteenth century nonetheless, anti-Protestantism reappeared with the Empire. It is an indicator of the Catholic reconquest of France: Catholic conservatives sometimes took sides with nationalists in the struggle to denounce the “Anglo-Protestant” religion, which, according to them, led to anarchist ideas because it had no leader (Baubérot and Zuber 2000, p. 225). However, Catholics, like Anatole Leroy-Beaulieu (1842–1912), denounced the “hatred doctrines”, anti-Protestantism, anti-Semitism and anticlericalism (Leroy-Beaulieu 1902, p. 1 f.).

Judaism

The Middle Ages were marked by a Christian controversy against Judaism, which had an effect upon the Jews’ fundamental rights (Dahan 1991). Jews were well integrated, and until 1096 and the first Crusade, in spite of some sporadic incidents, lived in peace in the French Kingdom. Afterwards, Bishop Agobard, from Lyons, and his successors, made themselves known through their polemical writings against Jews, and in the twelfth and thirteenth centuries, Christians passed round accusa-

tions against Jews about ritual murders, that caused attacks and discriminations. In 1182, King Philippe Auguste expelled the Jews from France. When not expelled, they were isolated, ostracized: at the end of the thirteenth century, Jews were forced to gather into specific neighbourhoods (that were not yet called ghettos).

Monarchy obeyed the pressure of the Catholic Church: in 1306, King Philippe le Bel drove them again from France. Pope Clement VI nevertheless intervened to show how absurd it was to accuse them of spreading the plague, as was said. During the fourteenth and fifteenth centuries, small millenarian movements like flagellants set upon Jews they considered as Antichrist (Cohn 1983, p. 147). For their part, the Jews always protested against the restrictions brought to their liberties, and recalled their status of subjects equal to others. That is a claim for equality and freedom which are human rights. Christians agreed on the fact that Jews must not be christened against their will, nor have their properties or their lives violated, in accordance with Pope Grégoire Ie Grand's letter to the Bishop of Palermo (598), and later the Bull *Sicut Iudaeis* (1120), enacted by Pope Calixtus II—taken up by his successors to the fifteenth century. Councils though, repeated the interdiction made to Christians to see Jewish doctors, which did not seem to be strictly followed. All in all, Middle Ages Christians were ambivalent towards Jews: some were their vehement enemies, others invited their co-religionists to tolerance.

In 1940, most of the French Catholic clergy rallied to the collaborationist government of Maréchal Pétain, based in Vichy. The latter had the Catholic schools subsidized in 1941. Freedom of thought and freedom of forming an association were questioned: Masonic Lodges, not much appreciated by Catholics, were shut, anti-Jewish laws published. Within the Catholic clergy, only a few bishops, like Bishop Saliège (Toulouse 1942), publicly protested against the Vichy government policy. Catholics however secretly helped Jews, claiming the condemnation of Nazism as antichristian paganism, basing their action upon the encyclical letter *Mit brennender Sorge* (1937).

French Protestants and the Claim for Human Rights

Through its position as a persecuted group, French Protestantism was driven to claiming the right to freedom of worship and conscience, which later were part of the rights published by the *Universal Declaration of Human Rights*. An illustration can be found in the works of Sébastien Castellion (1515–1563), who denounced fanaticism in the name of the freedom of thought. He opened the way for the Protestant theologian Pierre Bayle (1647–1706) who dedicated a long note to him in his *Dictionnaire historique et critique*—“Historical and Critical Dictionary”. In one of his books, he criticized intolerance, advocating civil tolerance of all Christian denominations, of Judaism, of Islam as well as atheists. Castellion inspired Rabaud Saint-Etienne (1743–1793), the Protestant who introduced freedom of conscience into the *Declaration*. Some Protestants like the humanist Georges Cassander

(1513–1566) and the juriconsult François Bauduin (1520–1573) endeavoured to establish concord with the Catholics and the Monarchy, in order to come back to the unity of Christianity (Cabanel and Cassan 1997, p. 16). During the Second World War, Pastor Marc Boegner (1881–1970) denounced the anti-Semitic measures of the Vichy government and launched assistance for the Jews.

Religion and Human Rights After the Second World War

The Roman Catholic Church, who had been hostile to the *Declaration of Human Rights* because of its purely secularist nature, was won over in the second half of the twentieth century to the human rights principles, while claiming its theological specificity. In his first encyclical letter, “*Redemptor Hominis*” (March 4 1979), Pope John Paul II recalled that human rights are founded upon the human person’s dignity, created in the image and likeness of God and redeemed by Christ’s blood. No state, no institution can decree human rights, because these rights are inscribed in the order God himself created. Politicians merely can ratify them. To think that the human rights depend upon the collective will is wrong, because, if they depend upon the expressed will, at a given time, by a State or an international institution, they can be repudiated, twisted or questioned at any other moment. If one admits that God wanted them, that they are inscribed in the natural order of things as God dictated them in the Decalogue, they are unquestionable (Evêques de France 1991).

French Christian philosopher Etienne Gilson (1884–1978) had previously claimed the importance for the Christians of human rights founded upon God’s rights. French Roman Catholics, under the theological authority of the Vatican, have to follow the Pope’s thesis. It can be said that a conception of human rights based upon God’s will more than upon man’s, can also suit the Catholic traditionalist dissent, asserting itself from Pius X, that was launched in France by Bishop Lefebvre.

In France this critical reflexion upon the Declaration, was undertaken from 1940 by Catholic thinkers, such as Emmanuel Mounier and Jacques Maritain: Christian movements were won over to a conception of human rights, based on the Biblical legacy (Perisic 2012, p. 36; Kalouyrou 2012, p. 147).

Christians—Catholics and Protestants—took part in the second generation’s human rights through Christian trade unionism, which did not want to leave all the room to the atheist socialist trade unionism. In 1926, the CFP, ‘Confédération Française des Professions’ (French Professions Confederation) gathered Christian employers trade unions; in 1948, it was replaced by the CFPC—Centre Français du Patronat Chrétien (French Centre of Christian Employers), associated to the CNPF in a consultative capacity, without vote, losing its professional and trade unionist character. In 2000, the CFPC became EDC—Entrepreneurs et Dirigeants Chrétiens—(Christian Businessmen and Leaders).

The basis of their thinking is the Church social doctrine, held in the encyclical letter *Rerum Novarum*, by Pope Leon XIII in 1891, as well as *Quadragesimo Anno*, in 1931. It was reassessed in 2004, under the form of a ‘*Compendium of the*

Church's Social Doctrine', written by Cardinal Martino. The reference values are the dignity of the human person, the sense of the community good, private property, charity or solidarity.

On the side of employees, the CFTC—Confederation Française des Travailleurs Chrétiens (French Christian workers confederation)—was a non-socialist trade union founded 1919 that claimed to adhere also to *Rerum Novarum*. It was disbanded in 1940, by the Vichy government. Due to its members' actions in the Resistance—it was an active member of the Conseil National de la Résistance—it was acknowledged after the Liberation as a representative trade union organization. A part of its numbers afterwards launched the CFDT—Confédération Française Démocratique du Travail (Democratic French confederation of work)—abandoning its Christian references.

Second generation rights are also defended by a multitude of humanitarian associations, Protestant: CIMADE, the Salvation Army; Catholic (le Secours catholique...); the Pentecostal movements; and more recently Muslim charity organizations (Société de Secours Islamique de France).

Religions and the Third Generation Rights

Churches have expressed their opinion about human rights of the so-called third generation: for instance, for the Catholics, the question of environment belongs to the Church's social doctrine, as it was initiated by Pope Paul VI in 1971 (Paul VI 1971; Goyon 2003, p. 27 and 49). He called for a responsible managing of the planet, in the name of the preservation of a natural order created by God. French Bishops repeated it (Evêques de France 1991, p. 295; see also Cabanel and Cassan 1997, p. 16 ff.). Naturally, spiritual movements like the New Age, whose reference is the community of Findhorn (Scotland), took a stand and acted for the environment.

French minority religious groups being kept under watch by the interior police—as allegedly dangerous—minority believers questioned the making of files about one's religion. They thus took part in another third generation right: the protection of personal data (Chevallier-Govers 2003). A French member of Scientology obtained a decision by the Conseil d'Etat, allowing him to consult the file the agents of the Renseignements Généraux (the security branch of the French police) had made up on him: it set a precedent for all citizens. French Scientologists launched a French branch of the *International Association for Human Rights*, with the American psychiatrist Thomas Szasz, to fight the improper use of psychiatry within an association: it belongs to the defence of a third generation right, that could become a fundamental right in totalitarian countries that use psychiatry to repress ideologies, i.e. hindering the fundamental right to freedom of thought, conscience and worship.

European Christian Churches have therefore repeated their commitment to “social Rights” of the third generation, like those to benefit the immigrants (Murray 2012; Moritz 2012, p. 135).

Minority Religious Groups and Human Rights

In France, minority religious groups, classified under the generic and derogatory term of ‘sects’, encounter, together with Muslims, the same type of difficulties vis-à-vis human rights.

On the plane of religious freedom—which belongs to the freedom of conscience and thought—minority religious groups played their role. Jean Nussbaum (1888–1967) is a good example: this Adventist physician founded the AIDLR—Association Internationale pour la Défense de la Liberté Religieuse (International Association for the Defence of Religious Freedom) in 1946. At that time, he broadcasted a program on Radio Monte Carlo, called ‘Conscience and Liberty’, that became a magazine in French language in 1948, published in Geneva.

Yet, if we consider the situation of minority religious groups in France, we will see they suffer from discrimination or persecution: France does not easily agree with religious diversity, and multiplies hindrance to the religious practice of its minority religious groups, called “sects,” without distinction. This phenomenon was described in several books, whose authors were surprised by the ample rejection those groups underwent (Palmer 2011; Introvigne and Melton 1996; Kounkou 2004; Dericquebourg 2013). In 1998, the French government launched the MILS—Mission Interministérielle de Lutte contre les Sectes (Inter-ministerial Mission against Sects), that will become in 2002, Miviludes—Mission de Vigilance et de Lutte contre les Dérives Sectaires (Vigilance and Fight against Sectary Abuse Mission), which aims at countering the development of the minority religious groups.

The members of Parliament, together with those government organizations, published reports—always unfavourable to the minority groups—upon “sects”, not founded upon sociological studies. One of them listed 172 of these supposedly dangerous sects, among which Jehovah Witnesses or Evangelical Assemblies could be found. Questioning this list before Justice was impossible, because, as it had been written by deputies protected by parliamentary immunity, but the accusations are often unfounded.

Globally, France does not really respect the freedom of belief of minority religious groups. In fact, France is probably the European country the most involved into the anti-sect fight: some professional interdictions were pronounced for religious motives, like the child care provider from the Euro region, whose agreement the General Council refused, on behalf of her being a Jehovah Witness—and in whose favour the Court decided (Paturel 2013, p. 51). The European Parliament criticized the French anti-sect fight, and considered, in a report from 1997, that the judicial arsenal of each State was enough, that a common European politic on the question was not useful.

In a report on religious freedom in France, the United-States criticized that list, because of the absence of contradictory procedures. Consequently, the Prime Minister of the time, J-P Raffarin, (JORF 2005) asked in a decree that it should not be used any longer. Yet, as its use is not controlled or fined, it is still in use, to tarnish the reputation of some religious movements, as Jehovah Witnesses.

For the last thirty years, successive Governments harassed minority religious groups by diverse means. One of them is fiscal harassment: for instance, the attempt to ruin the French branch of Jehovah Witnesses through a huge fiscal sanction. The French administration had taxed the donations made by the Witnesses to their organization, when donations made by the Catholics, the Protestants or the Jews to their Churches cannot be taxed, in accordance with a 1907 prerogative. It was a heavy sanction, for it retroactively applied with damages. Jehovah Witnesses contested the matter in French Court. Having been nonsuited, they appealed to the European Court of Justice, which stated that they were discriminated against in relation to established Churches.

Jehovah Witnesses had France pay a heavy fine for having refused tax equality with established religions, on behalf of their number: 133,000 baptized. Finally, the Jehovah's obtained the same tax exemption on places of worship than established Churches had, as the right to know the information collected upon them by the *Miviludes* (Conseil d'État 2013). Jehovah Witnesses also obtained the right not to be discriminated against for the custody of children, in the case of divorce, when the two parents are not of the same creed, (ECHR 2003)—as French judges tended not to give the Jehovah Witness the custody, owing to the negative perception they had of them. In a tax case, in relation with the faithful donations, France was condemned to a heavy fine by the European Court (Goni 2013; Goni and Trizac 2013).

Jehovah Witnesses won in Court the right to meet prisoners, as prison chaplains, in the same way as priests, pastors or rabbis. In spite of that Court order, prisons directors still prevented them from entering the visiting rooms. The Association of the Jehovah Witnesses made a complaint to the Tribunal Administratif de Paris, which, in its decision of May 17, 2013, ordered the Ministry of Justice to “deliver the religious Association Les Témoins de Jéhovah de France, agreements of volunteer chaplains in penal establishments, within one month delay from today, under a 500 € penalty per day.” In another decision made the same day, the tribunal Administratif de Paris made the same injunction to the interregional director of the penitentiary services of Paris, in favour of a Jehovah Witnesses minister, following a prisoner's request. Jehovah Witnesses also had much difficulty in finding a piece of land to build their new headquarters. Every time they found a suitable place, the planning permission was refused and pressures hindered the project. The same thing takes place when they want to build a Kingdom Hall.

In Castellane, the movement of the Mandarom, known as Aumism, underwent continuous harassment for many years. It was sentenced to tear one of its giant statues down, though it was situated on private land, due to the action of a green activist named M. Ferrato. The Church of Scientology launched a primary school in Paris, ‘l'Ecole de l'Eveil’ (the School of Awakening), which closed following permanent administrative harassment, though its results—based on Freinet pedagogy—were quite satisfactory. Presently, Mormons do not succeed in building temples, because municipalities refuse to welcome them.

Among the significant facts of the struggle against spiritual minorities, one can also quote a raid, made by seventy ‘gendarmes’ against an association, ‘Terre du Ciel’ (Land of Heaven) organizing New Age training courses, meditation, relaxation

and yoga. The pretext given was “illegal” work, by which the police qualified the help given by the friends of the association. Eventually, after years of investigations, ‘Terre du Ciel’ was sentenced to a 1500 € fine for diverse administrative mistakes, the accusation of illegal work having been rejected.

Because of its anti-sect policy, France was criticized in 1996 by the special rapporteur of the United Nations for religious freedom, Abdelfattah Amor, about the list of 172 ‘dangerous sects’ drawn up by a parliamentary inquiry commission: he condemned the use of the derogatory term of ‘sect’ applied to minority religions. In 2005, Asma Jahangir, who held the same position as M. Amor, concluded: “the policy and measures that have been adopted by the French authorities have provoked situations where the Rights to freedom of religion and belief of members of these groups have been unduly limited. Moreover, after the public condemnation of some of these groups, as well as stigmatization of their members, in 2012, the Parliament passed a law restraining the practice of psychotherapy to certain professions, to prevent “sectarian therapeutic abuses”, an expression forged by French anti-sect groups, aiming at the Dianetics in the Church of Scientology.

In March 2012, in spite of the decision of the international organization defending human rights, the French government through the Ministry of Education released a circular to schools entitled “Prevention and Fight against Sectarian Risks”. For Human Rights Without Frontiers int. (June 24, 2013): “The French policy and initiative at European level constitute an outright violation of international Rights norms and have no place in a Human Right institution such as the Council of Europe”. Faced with the harassment they undergo, minority religious groups claim that their rights of speech is not respected, and they ask that every chart, national, European and international declaration that guarantee human rights which France signed be applied to them. On the other hand, established Churches, Catholic, Jew or Muslim, were active in opposing to the officialization of gay marriage, which is a third generation right.

In 2002, the US State Department for religious freedom worried about the fact that this position could be a model for other countries: “What happens in France is followed with much attention, sometimes imitated by many countries, such as Lithuania, Russia, Cambodia, China, Haiti or Chile. French authorities, the MILS officials especially, went to some of those countries to promote their initiatives against sectarian movements. Nevertheless, those countries, that already have a heavy past in religious repression, do not have mechanisms for the protection of human rights, such as those existing in France.” As a president of MILS, Free Mason deputy Alain Vivien travelled to China in order to advise the Chinese government in its anti-sect fight. In 2002, the European Parliament asked the French government to revise its law in regard to the abuse of the weak—the About-Picard law—as contrary to the *European Convention of Human Rights*.

Confronted with discrimination, religious groups seek recourse from the French Court, even from the European Court of Justice, or the European Commission of Human Rights, to obtain the equality in rights with large denominations: they thus obtained the same rights as established Churches. Their legal fights therefore consolidate the right to the freedom of opinion and worship, contained in the

Declaration of Human Rights. In French lawsuits, they put forward the articles of the Constitution that impose the respect of human rights. Nonetheless, minority religious groups carry their cases before the European Court of Justice or before the European Commission (CEDH), demanding to benefit from the dispositions of the Universal Declaration of Human Rights, as the European Convention of Human Rights.

To prevent minority religious groups from proselytizing, hostile Left and Right wing deputies proposed establishing the offence of mental manipulation—a version of brainwashing—seen as unscientific by the American Association of Psychologists (Anthony and Introvigne 2006), Catholics as Protestants opposed to it (Associated Press 2000), (Agence France Presse 2000). Nevertheless, deputies About and Picard succeeded in having a law voted in the Parliament, instituting an offence of abuse of weakness—or subjection state, taking up again the Mussolini law of Plagio—which is a substitute for the notion of mental manipulation (French law n°2001–504, June 12 2001, ‘About-Picard’), two times enforced by judges: Arnaud Mussy, confirmed by the Appeal Court of Rennes, Tuesday July 12 2005.

All parties globally accept the principle of secularism, but there are two opposite interpretations of the 1905 law, which is its constitutional statement. As for the partisans of a restrictive (close) interpretation of the law (“closed secularism” or “laïcisme”), secularism must reduce the visibility of religion within the public space. Reversely, for the partisans of an open secularism, “laïcité ouverte”, the 1905 law must guarantee the exercise of all forms of beliefs, and their expressions within the public space, provided they do not trouble the public order. The closed secularism tendency has imposed itself under the influence of the rationalist associations.

French Muslims and Human Rights

In the case of the Muslims, a restrictive enforcement of the principle of secularism was made against the Muslim headscarf and the participation in sports lessons by Muslim schoolgirls in high schools. The question of the wearing of visible religious symbols in high school prompted great debates—pupils who wore headscarves were sometimes excluded from school, then reintegrated following a court decision (Appeal of the Northern Islamic League, N°170216, Nov. 27 1996), resulting in the 2004 Law upon wearing visible symbols in the State primary and secondary schools (2004–228 Law, framing the enforcement of the principle of secularism, the wearing of visible religious symbols or dress manifesting a religious belonging, within State schools, high schools and lycees.) This is concerned with the Islamic headscarf, all the more the burqa, but also big pectoral crosses and the kippa. Conversely, confessional or non-confessional private schools can make their own rules, which led to creating confessional Muslim or Jewish schools, or to the schooling of Muslims or Jews in Catholic private schools that accept religious symbols.

The question was recently raised concerning private bodies, when a child caregiver who wore a headscarf in the day-care centre she worked in, “Babyloup”, got

fired. In Court, the dismissal was considered a religious discrimination. Faced with that fact, members of Parliament have sought to extend the 2004 Law to public and private companies, but that law could be declared unconstitutional by the Constitutional Council, under the motive that it is an intrusion into the life of associations or private companies, which manage their own dress codes, in respect to employment law and joint negotiations between the management and trade union representatives.

In 2010, France banned wearing the burqa in public, for several reasons, like that of maintaining public order, because the police could not identify persons under a full Islamic veil. Also, feminists think that women's rights are scorned, because, according to them, veiled women were not free to choose wearing it, while the latter claim to the media, to be let free to wear the burqa, in the name of the freedom of thought. Here we see a typical conflict between two representations of the rights of persons. Incidents recently broke when women in burqa were fined in the street: between October 2010 and April 2013, p. 661 women got fined, one of them being arrested twenty-nine times. Muslims as well as some observers consider French leaders as Islamophobic. Interdictions and fines are still rejected by the European Court of justice, which seems to have adopted a pragmatic point of view: in several of its recent decisions, wearing visible religious symbols, or the expression of belief at work, are allowed if they do not harm other people.

Those who want to wear visible religious symbols maintain that this ban constitutes an offence to human rights, insofar as it reaches the freedom of worship in its consequences in everyday life. On the opposite, requests for halal or kosher food in the schools, universities or companies never really raise problems—except for the far right—because of the Catholic long-time custom of fish and eggs on Fridays.

France was criticized by the American State Department regarding religious liberties, on July 20 2012 for the year 2011, because of its forbidding of burqa, as well as for its law upon the ban of visible religious signs (2004), banning the kippa, the cross and chador at school, which was voted within the frame of an interpretation of the law of 1905, upon the separation of Church and State, an unenforceable law, because it is liable of winning an appeal in the European Court of Justice.

Conclusion

Actually, rights in France were defended in the field of the expression of opinions as well as filing information of the population. France does grant the right of asylum to persons who undergo political persecution—or even religious persecution, as in the case of Christians in the oriental countries.

But France, which proclaims to be “the Birthplace of Human Rights”, finds it difficult to accept religious diversity and to grant minority religions rights. Religions themselves agreed with first and second generation human rights, each with its specificity. In fact, the link between the human rights defined by the 1789 Universal Declaration of Human Rights and the religion, refers, partly to diverging

conceptions on secularism, partly to religious freedom in France. D. Koukou, a lawyer and sociologist, underlines that religious liberties are not developed in French Law (2013, p. 137). They are not mentioned as such, but only as “public liberties”. A “right of religions” does not exist, which would lean upon the Declaration of Human Rights, as a right to private property or opinion and expression exists. The right of religions is built from judicial precedents based upon decisions of the tribunals, of the Council of State—and the European Court of Human Rights or the European Court of justice.

It is globally interesting to wonder whether Europeans, in particular young Europeans, see religion as a vehicle of human rights. Of interest also, is to know whether European people wish religious freedom to appear uppermost in human rights. However, the hypothesis can be made, that young believers are more attracted by the third generation rights because their consciousness is greater regarding environmental dangers and worldwide balance for the future. They also could be more enthusiastic about championing third generation rights for which their opinion is sought, within the frame of ethical commissions installed to examine society issues.

A theological limitation yet exists to accepting third generation human rights: established Churches—with the exception of Reformed Protestantism—were opposed to the right of gays and lesbians to get married, and are all the more opposed to artificial reproduction or adoption by homosexual couples.

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