



# Disputed Historical Legacies: The Case of France

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In the global world of today and in the context of international migrations, many French politicians are calling for the need to rebuild the French historical and chronological narrative- reinforced by textbooks, museums, commemorations, heroes, etc. - in order to help maintain a united “Republic.” In addition, President Emmanuel Macron is trying to have a larger European perspective by focusing on “European sovereignty”<sup>1</sup> and Europe’s common past, such as “l’Europe des lumières.” (European enlightenment). During his electoral campaign Macron asserted that France must face and acknowledge its past and “reconcile conflicting and complex memories.” He said, “citizens, especially in some suburbs, are far from appeased,” and that society still wrestles with “multiple traumas.”<sup>2</sup>

Against this background of competing historical narratives, former President Sarkozy set up a minister on “national identity,”<sup>3</sup> criticized by the left who viewed that innovation as a concession to the extreme right (the Front National), and he later tried to launch a project for a museum on French history<sup>4</sup>, although without success.

According to Macron’s minister for national education, “The question of love for our country is absolutely fundamental... One must love one’s country as one loves one’s family, one’s comrades. We must spread positive feelings, optimism. That does not mean that our country has been great in all of its history. It is necessary, especially when one is small, to have a chronological narrative which makes those feelings evident. This seems obvious.”<sup>5</sup>

In France, History can be a topic of division on the political scene specially when politicians are embodying the past in so called “memorial laws”(section I). If in principle

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<sup>1</sup> “Macron Calls for 'European Sovereignty' to Combat Authoritarianism in Speech at European Parliament.” (2018). *France 24*, France 24.

<sup>2</sup> Nougayrède, Natalie. (2017). “Emmanuel Macron Carries the Hopes of Many – but Maybe Not Enough | Natalie Nougayrède.” *The Guardian*, Guardian News and Media.

<sup>3</sup> Chrisafis, Angelique. (2010). “Nicolas Sarkozy Says Sorry for National Identity Ministry.” *The Guardian*, Guardian News and Media.

<sup>4</sup> Guernigou, Yann Le (2009). “Sarkozy Proposes Museum of French History.” *Reuters*, Thomson Reuters.

<sup>5</sup> “Interview De M. Jean-Michel Blanquer...” (2017). *Vie Publique*, Vie-Publique.fr - La Documentation Française, 19 May discours.vie-publique.fr/notices/173001064.html.

there has been no controversy over “memorial laws” that criminalize slavery (section II) or Shoah “negationism” (section III), then the introduction of “the positive aspects of Colonization” in such a law has triggered fierce debates (section IV). In addition, the issue of religion in the public space in a secular republic like France is provoking legal and political disputes (section V).

## **I. Memory Laws**

Since the Law can be considered a kind of “legal monument,” (for example, the so-called “grandes lois de la République,” including the 1905 “Law on the Separation of the Churches and the State”<sup>6</sup>), it is in a sense part of our topic on history, commemorations and monuments. The following section enumerates “memory laws” in France and the legal and political controversies surrounding these laws.

One could define a “memory law” as a law that sets an official viewpoint of the state about a historical event. Besides the Law of July 6, 1880,<sup>7</sup> which established July 14 as our national holiday, we have four so-called “memory laws” in France:

- the law of July 13, 1990, also known as the Gayssot Law, which condemns any acts of anti-Semitism, racism, or xenophobia;<sup>8</sup>
- the law of January 29, 2001, which recognizes the 1915 Armenian Genocide;<sup>9</sup>
- the law of May 21, 2001, also known as the Taubira Law, which recognizes trafficking and slavery as crimes against humanity;<sup>10</sup>
- the law of February 23, 2005, on Recognition by the Nation and National Contribution in Favour of French Repatriates, which recognizes those who suffered in Algeria, Morocco, Tunisia, and Indochina.<sup>11</sup>

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<sup>6</sup> Loi du 9 décembre 1905 concernant la séparation des Eglises et de l’Etat, version en vigueur au 3 juillet 2018.

<sup>7</sup> Loi du 6 juillet 1880 qui établit un jour de fête nationale annuelle

<sup>8</sup> Loi n° 90-615 du 13 juillet 1990 tendant à réprimer tout acte raciste, antisémite ou xénophobe

<sup>9</sup> Loi n° 2001-70 du 29 janvier 2001 relative à la reconnaissance du génocide arménien de 1915

<sup>10</sup> Loi n° 2001-434 du 21 mai 2001 tendant à la reconnaissance de la traite et de l’esclavage en tant que crime contre l’humanité

<sup>11</sup> Loi n° 2005-158 du 23 février 2005 portant reconnaissance de la Nation et contribution nationale en faveur des Français rapatriés



Christiane Taubira who championed the Law of May 21, 2001, which recognizes slavery and trafficking as a crime against humanity.

Some “memory laws” are purely declarative. For example, the January 29, 2001 law is a mere recognition of the Armenian genocide without any penal provision. According to the Constitutional Council and the Conseil d’Etat, a law should be normative, meaning that it must prescribe, prohibit, or sanction. In principle, memory laws like the 2001 law on the Armenian genocide are contrary to the Constitution, since they are “symbolic laws” and not normative laws.

Memory laws can also be understood as a kind of political reading of history which could interfere with research and teaching. For example, the February 23, 2005 law refers to “positive aspects of colonization” that should be taught in schools.<sup>12</sup> Here we have a normative law which could affect intellectual freedom and has triggered hostile petitions from historians and teachers.<sup>13</sup> This is discussed further in section IV.

Some memory laws are introducing new rights and crimes, such as the Gayssot Law of July 13, 1990 on anti-Semitism and racism, which stipulates a penalty of one year in prison and a fine of 45,000 euros. On the basis of the 2001 Taubira Law anti-slavery associations have introduced in a tribunal claims against historians for having denied slavery, a crime against humanity. A law passed in December 22, 2011 tried to criminalize the denial of the Armenian genocide (with a penalty of one year in prison and a 45,000 euros fine).<sup>14</sup> In February 2012, the Constitutional Council determined this law to be contrary to the constitution:

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<sup>12</sup> Ibid.

<sup>13</sup> Henley, Jon. (2005). “French Angry at Law to Teach Glory of Colonialism.” *The Guardian*, Guardian News and Media.

<sup>14</sup> Arsu, Sebnem. (2011) “Turkey Lashes Out at France Over a Bill About Armenian Genocide.” *The New York Times*, The New York Times.

“...a legislative provision having the objective of ‘recognising’ a crime of genocide would not itself have the normative scope which is characteristic of the law; that nonetheless, Article 1 of the law punishes the denial or minimisation of the existence of one or more crimes of genocide recognised as such under French law; that in thereby punishing the denial of the existence and the legal classification of crimes which Parliament itself has recognised and classified as such, Parliament has imposed an unconstitutional limitation on the exercise of freedom of expression and communication.”<sup>15</sup>

**Legal criticisms against memory laws:** As demonstrated by this 2012 Constitutional Council ruling, there are a number of arguments that cast doubt on the legality of memory laws.

First, an individual cannot be condemned without a precise text (*Nullum crimen, nulla poena sine lege*).<sup>16</sup> As the wording of memory laws determining new crimes is too vague, this principle is not respected. This applies for instance in the December 22, 2011 law (Armenia) which stated that denying or minimizing the existence of a crime of genocide recognized by a French law is an offence.

Second, these laws follow a "communitarist logic," in which one group or community is specifically singled out by a law. In the French legal and political context, “communautarisme” is badly viewed as it could breach the principle of the indivisibility of the Republic and the unity of the French people. A decision made by the Constitutional Council has identified inconsistencies between the Constitution of France and the European Charter for Regional or Minority Languages.<sup>17</sup> Endorsed by the Council of Europe Convention, the European Charter for Regional or Minority Languages undermines France’s constitutional principles of the indivisibility of the Republic, equality before the law, and the unity of the French people. In other words, the French Constitution is opposed to the recognition of “collective rights... [for] any group defined by community of origin, culture, language or belief,”<sup>18</sup> a value underscored by the charter.

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<sup>15</sup> Décision n°2012-647-DC du 28 février 2012

<sup>16</sup> “Nullum Crimen Sine Lege.” *LII / Legal Information Institute*, Cornell Law School, [www.law.cornell.edu/wex/nullum\\_crimen\\_sine\\_lege](http://www.law.cornell.edu/wex/nullum_crimen_sine_lege).

<sup>17</sup> European Charter for Regional or Minority Languages Part 1 art. 1, Part 2 art. 7

<sup>18</sup> Décision n° 99-412 DC du 15 juin 1999

Third, memory laws would affect the principle of equality between citizens by bringing attention to certain genocides, but not others. For instance, the Gayssot Law of July 13,1990<sup>19</sup> only penalizes (one year imprisonment and a fine of 45,000 euros) denial of the existence of Nazi crimes and not of other crimes against humanity.

## II. On the Abolition of Slavery Commemorations and Memorials

A contested historical narrative in France is that of slavery and abolitionist history. The following section provides an overview of the state's decision on abolition commemoration, education and textbooks, public perception of this aspect of French history at home and abroad, and an overview of the way in which major French cities have dealt with France's involvement in the slave trade.

**History of French Slavery:** From the start of the 16<sup>th</sup> to the end of the 19<sup>th</sup> century between 10 and 12.5 million people were deported from sub-Saharan Africa to the Americas; 2 million died during the crossing.<sup>20</sup> 1.2 million slaves have been deported by French slave-traders.<sup>21</sup> Europeans were not the only group involved in the slave-trade; from the 7<sup>th</sup> to the end of the 19<sup>th</sup> century 12 to 14 million Africans were deported to Arab countries.

Although the abolition of slavery in France first occurred in 1794 during the French Revolution, it was subsequently annulled by Napoleon Bonaparte<sup>22</sup> (his wife Josephine had a role in this). The second abolition occurred in April 1848 in the Second Republic<sup>23</sup> when Victor Schoelcher was Deputy Secretary of State for Colonies.

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<sup>19</sup> Loi n° 90-615 du 13 juillet 1990 tendant à réprimer tout acte raciste, antisémite ou xénophobe

<sup>20</sup> "Estimates." *The Trans-Atlantic Slave Trade Database*, Emory University, [www.slavevoyages.org/assessment/estimates](http://www.slavevoyages.org/assessment/estimates).

<sup>21</sup> Geggus, David. (2001). The French Slave Trade: An Overview. *The William and Mary Quarterly*, 58(1), 119-138.

<sup>22</sup> Loi du 20 mai 1802 du 30 Floreal an X relative à la traite des negres et au régime des colonies

<sup>23</sup> Décret du 27 avril 1848 relatif à l'abolition de l'esclavage dans les colonies et possessions françaises



May 10, 2017: Former president François Hollande and President Emmanuel Macron commemorating the abolition of slavery.

**State decisions on commemoration:** May 10<sup>th</sup> is a national day of commemoration in metropolitan France dedicated to the memory of the abolition of slavery. It was a decision taken by President Chirac in 2006. Why May 10<sup>th</sup>? It is the date of the adoption by the French Parliament of the 2001 Taubira memory law, which recognized slavery as a crime against humanity.<sup>24</sup> The event is organized by the National Committee for the Memory and History of Slavery<sup>25</sup> set up by the 2001 law. The ceremony is attended by high ranking members of the state such as the President, the Mayor of Paris, and the Education Minister. The May 10<sup>th</sup> celebration, which takes place in front of a modest monument in the Jardin du Luxembourg, located near the senate building, offers a reminder of the role played by politicians first in legally supporting and financing, then outlawing, the slave trade.<sup>26</sup>

Education has become pivotal to abolition commemorations in France (for instance, in textbooks). Every year a circular is sent by the Minister of Education to teachers for them to read texts during classes (including novels discussing the period and the history of Toussaint-Louverture, a slave leader in St. Domingo who organized revolts during the French Revolution and died in exile in Eastern France). In addition, a directive is sent by the Home Office Minister to all prefects (government representatives of each province) for them to organize local celebrations.

The foundation called Esclavage et Réconciliation, which has been set up by descendants of slaves and colonialists, is currently in the process of proposing a national memorial project. This monument would display the names and registration numbers of 200,000

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<sup>24</sup> Code pénal, article 212-1

<sup>25</sup> “Le Comité.” *Accueil Du Site*, Cnmhe, [www.cnmhe.fr/spip.php?rubrique1](http://www.cnmhe.fr/spip.php?rubrique1).

<sup>26</sup> Le Monde. (2017). “Hollande Et Macron Ensemble Lors De La Cérémonie De Commémoration De L’abolition De L’esclavage.” *Le Monde.fr*, Le Monde.



slaves who attained freedom in 1848 in Guadeloupe, Martinique, La Réunion, and Guyana. The monument would be located in a prestigious location in Paris, and its goal would be to bring pride to the descendants of those listed and to help craft a new view in France of people from overseas territories. One word on this foundation: it is based upon the idea that trauma from the past continues to block the development of French overseas territories. The foundation's aim is to foster a non-confrontational memory of slavery, encourage historical research on slavery and post-slavery, and promote memorial tourism in French overseas territories, the French metropolitan areas, and Africa.<sup>27</sup>

In French overseas departments there are other celebration dates including 27 April (commemorating the abolition law from 1848) in Mayotte; 22 May in Martinique (commemorating the slave rebellion and resulting abolition of slavery in 1848); 27 May in Guadeloupe (from a local decree in 1848 giving freedom to slaves there); 20 December (1848) in La Réunion (as seven additional months were required to force colonialists to accept the abolition law<sup>28</sup>); and other dates in Saint Martin and Barthélemy.

**A relative indifference of the general public:** I understand that it is not easy in France to maintain the momentum generated by the May 10<sup>th</sup> commemoration of emancipation. Community celebrations mainly depend on the dynamism of the local population that hail from French overseas territories (e.g., populations from “départements d’outre-mer” in the north of Paris around Saint-Denis) and on initiatives from local municipalities and grass-root organizations.

Generally speaking one could state that, although there is a fortunate consensus on the commemoration of the abolition, there is also a kind of relative general public indifference<sup>29</sup> with the obvious exception of French nationals with overseas roots, human rights groups, and some local governments.

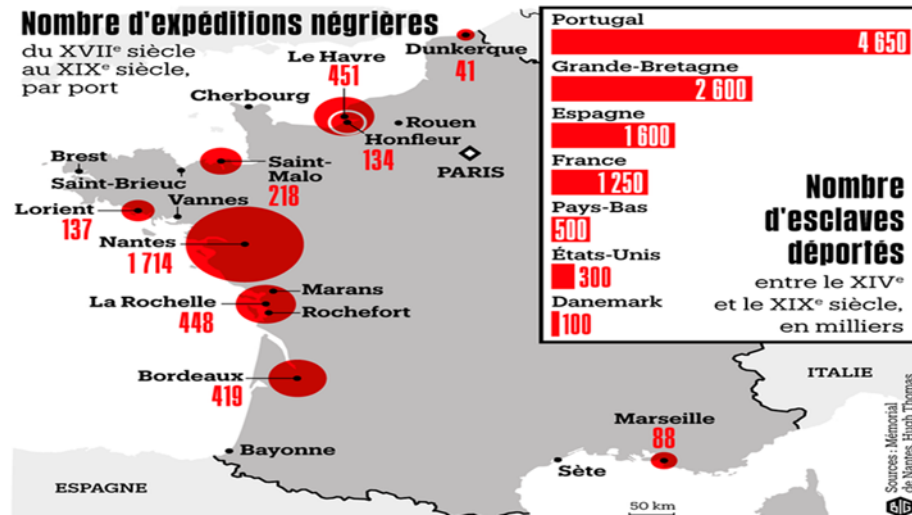
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<sup>27</sup> Zinzou, Lionel, and Marc-René Bayle. (2017). *MEMOIRE DE L'ESCLAVAGE, DEVOIR D'AVENIR Rapport De Préfiguration De La Fondation Pour La Mémoire De l'Esclavage, De La Traite Et De Leurs Abolitions*. pp. 1–143.

<sup>28</sup> Proclamation du 20 décembre 1848. Abolition de l'esclavage. Sarda Garriga.

<sup>29</sup> As evidenced by the number of participants to commemorations or by the limited press coverage.

**Role of local communities in former slave trading ports: Le Havre, Saint Malo, Lorient, Nantes, La Rochelle, Bordeaux, Marseille**



Number of slave-ships departing France by port and number of slaves trafficked by country.

**Monuments, street names and the memory of slave trafficking:** Nantes, the port of departure for more than 1,700 slave-trading expeditions, was the largest French *port négrier*, followed by Le Havre, La Rochelle, and Bordeaux. In over a century, ships sailing from Nantes transported upwards of 550,000 slaves to France’s American colonies.<sup>30</sup>

In recent years, Nantes has tried to consciously recognize its past. In 2012, after twenty-eight years of debate, the city unveiled the Memorial to the Abolition of Slavery on the Quai de la Fosse.<sup>31</sup> The museum of Nantes (Château des ducs) explains slavery and slave trafficking. There is also a city walk of 1.5 km with 11 informational plaques between the Château des ducs de Bretagne and the Quai de la Fosse where the memorial is set.<sup>32</sup>

<sup>30</sup> “Nantes, La Traite Négrière Et L’esclavage.” *Mémorial De L’abolition De L’esclavage, Le Voyage à Nantes*, memorial.nantes.fr/nantes-la-traite-negriere-et-l-esclavage/#contenu.

<sup>31</sup> “Découvrir.” *Mémorial De L’abolition De L’esclavage – Nantes, Le Voyage à Nantes*, memorial.nantes.fr/decouvrir/.

<sup>32</sup> “The Memorial in the City, an Urban Itinerary.” *Mémorial De L’abolition De L’esclavage – Nantes, Le Voyage à Nantes*, memorial.nantes.fr/en/the-memorial-in-the-city/.



Memorial to Slavery in Nantes

Nantes also has six streets - Kervégan, Guillaume-Grou, Colbert, Guillon, Bourgaud-Ducoudray, and Millet – named after personalities involved in the triangular trade and slavery. Associations like Mémoires & Partages<sup>33</sup> et Flam Africa<sup>34</sup> are asking for informational plaques beneath these street names. “If Nantes is a reference on the memory of slavery, then one cannot continue to honour slave-traders who made their living on slavery, which is recognised as a crime against humanity” said Alassane Guisse, vice-president of Flam Africa. The Director of Mémoires & Partages, Karfa Sira Diallo, added that “pedagogy is better than changing street names.”<sup>35</sup> Pedestrians and visitors should know who these individuals were and raise questions about them. They hope that the city of Nantes will lead an initiative that can influence other former slave-trading ports. The city is considering these proposals. After historical research has been conducted, plaques will be set, and an electronic platform Wikipatrimoine<sup>36</sup> will provide the public with complete information on these historical figures.<sup>37</sup>

Bordeaux, whose traders deported more than 150,000 Africans during the height of the slave trade,<sup>38</sup> offers exhibits at the Musée d’Aquitaine commemorating the city’s role in

<sup>33</sup> Mémoires & Partages. [ca. 2015]. In *Facebook* [Group page]. Retrieved June, 25, 2018. from <https://www.facebook.com/memoiresetpartages/>

<sup>34</sup> “Flam Africa.” *Flam Africa*, 2013, [flamafrica.com/](http://flamafrica.com/).

<sup>35</sup> Brenon, Frédéric. (2018). “Nantes: La Ville Va Ajouter Des Panneaux Dans Les Rues Portant Un Nom De Négrier.” *20 Minutes*, 20minutes.

<sup>36</sup> Although currently unavailable, the site will eventually be found at <https://www.nantes.fr/home/ville-de-nantes/culture/patrimoine-et-archeologie/wikipatrimoine.html>

<sup>37</sup> Auriane. (2018). “Nantes. Des Panneaux Explicatifs Dans Les Rues Qui Portent Le Nom D’un Négrier.” *Le Bonbon*.

<sup>38</sup> Koda, Maité. (2017). “Que Faire Des Rues De Bordeaux Qui Portent Les Noms De Négriers ?” *France 3 Nouvelle Aquitaine*, France Télévisions,

the slave trade<sup>39</sup> and displays a bust of Toussaint l’Ouverture in the Parc aux Angeliques.<sup>40</sup> But the city prefers not to name its new bridge on the Garonne for Toussaint-Louverture. Similar to Nantes, there are 21 streets in Bordeaux named for major players in the triangular trade. For example, Rue Saige was baptised in the honour of François-Armand de Saige, city mayor between 1790 and 1793. He was not a slave trader, but he was part of a famous family involved in slave trade trafficking. In 2014, a deputy mayor in charge of diversity said that changing street names would be awkward and bring stigma to family descendants, demonstrating more clearly the complexity of these situations.<sup>41</sup> However, as in Nantes, Karfa Diallo, founder of Mémoires et Partages, is not in favour of street name changes. For Diallo, rather than changing names, contextualization is a must. He said, “the residents of Bordeaux do not have to feel guilty for a crime they did not commit. But we must know this story. Our memories are not in competition; they must be in dialogue together.”<sup>42</sup>

Le Havre chose to transform the use of colonial spaces by telling the story of France’s past and its legacies in what used to be a seat of power. La Maison des Armateurs, for example, offers itself as a place for information about the history of slavery, colonialism, and European imperialism.<sup>43</sup> But, among five streets named after former slave-traders, a street named for Jules-Masurier still honours the memory of a ship-owner involved in the slave trade up to 1862, more than 47 years after its abolition in France. He was forcibly dismissed from the Chamber of Commerce of Le Havre, but then became the city mayor between 1873 to 1878.<sup>44</sup>

In La Rochelle, Rasteau Square honours one large family of ship-owners who were involved in slave trafficking.<sup>45</sup>

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<sup>39</sup> “Modern Era: Bordeaux in the 18th Century, Trans-Atlantic Commerce and Slavery.” *Musée D’Aquitaine*, [www.musee-aquitaine-bordeaux.fr/en/article/modern-era](http://www.musee-aquitaine-bordeaux.fr/en/article/modern-era).

<sup>40</sup> “Square Toussaint Louverture.” *Site Officiel De La Ville De Bordeaux*, [www.bordeaux.fr/121192](http://www.bordeaux.fr/121192).

<sup>41</sup> Cody, Edward. (2009). “In Bordeaux, a Struggle to Face Up to Slave-Trading Past.” *The Washington Post*, WP Company.

<sup>42</sup> Koda, Maité. (2017).

<sup>43</sup> Maraine, Marie-Ange. “La Mémoire Du Commerce Triangulaire Et De La Traite Des Noirs Au Havre.” *Www.paris-Normandie.fr*, 1 Apr. 2018, [www.paris-normandie.fr/le-havre/la-memoire-du-commerce-triangulaire-et-de-la-traite-des-noirs-au-havre-FO11862272](http://www.paris-normandie.fr/le-havre/la-memoire-du-commerce-triangulaire-et-de-la-traite-des-noirs-au-havre-FO11862272).

<sup>44</sup> Bocquel, Bastien. (2018). “Au Havre, La Mémoire De L’esclavage S’invite Dans La Rue.” *Ouest-France.fr*, Ouest-France.

<sup>45</sup> Philippon, Laura. (2015). “Les Vestiges De La Traite Négrière à La Rochelle - Outre-Mer La 1ère.” *la1ère*, Franceinfo.

In Marseille, five street names have been identified by the Foundation du mémorial de la traite des Noirs as honouring historical figures involved in the slave trade. Among them is Colbert Street, named for the former minister of Louis XIV and Secretary of State for the Navy. He is most infamous for authoring the first version of the legal code of slavery, the “code noir.”<sup>46</sup>



Street in the first district in Paris formerly known as Richepance Street

In Paris, in 2002, the mayor changed the name of Rue Richepance to Rue du Chevalier de Saint-George. Antoine Richepance was a general under Napoleon Bonaparte who contributed to the reimplementation of slavery in Guadeloupe in 1802. Now the street honours Joseph Boulogne, Chevalier de Saint Georges, the son of an enslaved black woman and an aristocratic plantation owner, who arrived in Paris in the 18<sup>th</sup> century and became a notable composer. The names are presented together on the plaque, demonstrating both historical memories.<sup>47</sup>

Concerning France’s contested memory and its history with slavery, there is still a debate. On the one hand, groups like the Representative Council of France’s Black Associations (le Conseil Représentatif des Associations Noires or CRAN), promote name changes, particularly when it comes to streets and schools honouring Jean-Baptiste Colbert, author

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<sup>46</sup> Enault, Nicolas (2017). “Ces Rues Françaises Qui Portent Encore Des Noms De Négriers.” *Franceinfo*, Franceinfo.

<sup>47</sup> Phong, Emilie Tran. (2002). “La Rue Richepance Devient Celle Du Chevalier-De-Saint-Georges.” *Leparisien.fr*, Groupe Le Parisien.

of the Code noir, one of the early legalizations of slavery in France.<sup>48</sup> On the other hand, those like Karfa Diallo say that if names are erased memory would be erased as well. “We wish to preserve memory while working on pedagogy and be vigilant for the future. Celebration of slave traders who have enriched their cities and have participated in its development while being criminals should be discussed. We don’t have to judge them but we have to restore historical truth. So that rather than changing the name of a street, it would be more relevant to add panels explaining what the role was of the celebrated persons in slave trafficking with the number of ships and slaves involved. There is no need to stigmatize the descendants of traffickers. It is better to explain the past such as with the sugar and rum distilleries in Bordeaux.”

### III. Colonization and the Algerian War

A major historical period still being contested in France is the colonization of Algeria and the war that began in 1954. Today, dispute manifests around memorials, textbooks, and Macron’s controversial pre-election statements about colonialism in Algeria and crimes against humanity.

If the topic of slavery is not too hot as far as the political decision-making process and general public opinion are concerned, the issue of colonization and in particular the war in Algeria is still extremely sensitive. Many of the groups involved in that historical period are still alive today, including *pieds-noirs* (a term applied to Europeans who lived in Algeria during the French rule and migrated *en masse* to France in 1962), *harkis* (Algerians who served in the French army and were expelled from Algeria under the threat of death at the end of the war; many are regarded even today as traitors to Algeria), and finally former FLN militants (the largest Algerian pro-independence movement). Within France, there are large minorities of Algerian extraction with connections to this conflict. This topic is the predominant cause of difficult relations between Algeria and France.

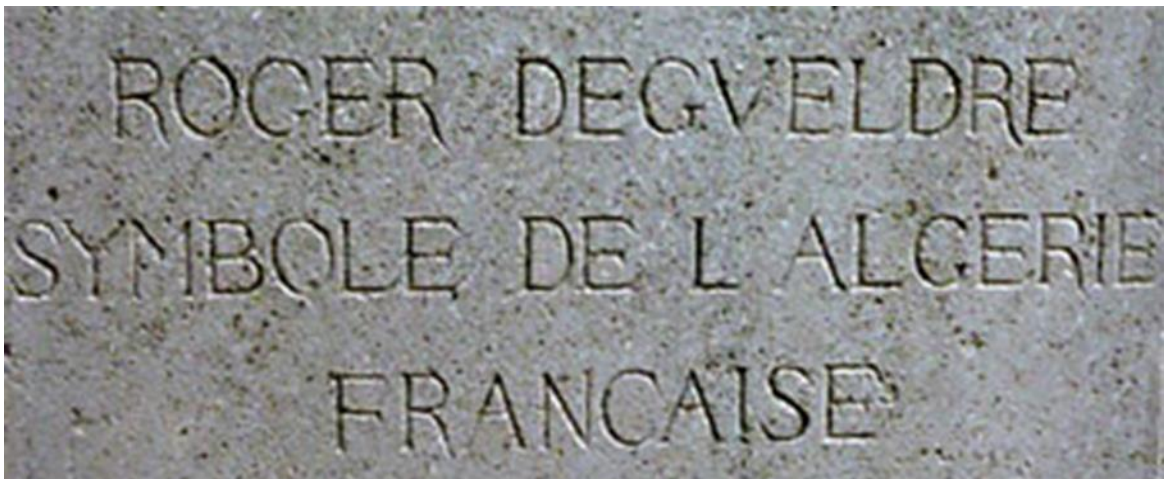
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<sup>48</sup> “Le CRAN Appelle à Débaptiser Les Rues Colbert Et à Déboulonner Ses Statues - Outre-Mer La 1ère.” (2017). *la1ère*, Franceinfo.

Fighting in the Algerian war, about 15,000 French soldiers<sup>49</sup>- mostly conscripts- and 30,000 *harkis* died (though some sources put the figure as high as 150,000). One million *pied-noirs* came back to France in 1962.<sup>50</sup> Around 100,000 *harkis* and their families were forced to leave independent Algeria<sup>51</sup>.

The commemoration of the end of the war in Algeria and the tribute to be paid to its numerous victims from both sides of the conflict have been topics of controversy. Former President Jacques Chirac- who served as part of the military in Algeria- inaugurated the first national memorial in 2002. The monument is located along the Seine and mentions 22,959 names of soldiers who lost their lives - including 3,010 *harkis*- in order to reconcile and appease enduring tensions around the Algerian War and former French Algeria.<sup>52</sup>

Previously, in Nice, where many *pied-noirs* live, a 1973 monument is more about regrets and nostalgia for former French Algeria; there is even a plaque celebrating an OAS leader - an organization which killed hundreds of sympathisers to the independency of Algeria- Roger Degueldre (executed on July 6, 1962 after being condemned to death by a military tribunal under de Gaulle ). The memorial lauds him as a “symbol of French Algeria.”<sup>53</sup>



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<sup>49</sup> Schofield, Hugh. (2012). “France's War in Algeria Explored in Paris Exhibition.” *BBC News*, BBC.

<sup>50</sup> World Peace Foundation. “Algeria: War of Independence.” *Mass Atrocity Endings*, Tufts University, 7 Aug. 2017, sites.tufts.edu/atrocityendings/2015/08/07/algeria-war-of-independence/.

<sup>51</sup> “Harkis les oubliés” webdoc.france24.com

<sup>52</sup> “France Pays Homage to Algeria Dead.” (2002). *BBC News*, BBC.

<sup>53</sup> Bancel, Nicolas, and Pascal Blanchard. (2017). “Conquering the Public Space.” *The Colonial Legacy in France: Fracture, Rupture, and Apartheid*, Bloomington, Indiana : Indiana University Press, pp. 398–400.



**Was colonization in Algeria a crime against humanity?** As presidential candidate in 2017, Emmanuel Macron told an Algerian journalist that the 132-year colonisation of Algeria involved “crimes and acts of barbarism” that would today be acknowledged as “crimes against humanity.”<sup>54</sup> His statements on colonization in Algeria triggered controversy with many in France, not only among *pied-noirs* communities.

However, in partial contrast to his earlier statement, in December 2017 during a visit to Algeria, Macron said that he would “not be held hostage by France’s colonial past. We have a shared memory and we need to accept that but I want, out of respect for our history, to turn to the future.”<sup>55</sup> Embedded in this statement and clearly expressed in a tweet Macron posted shortly thereafter, was reference to the fact that Algeria is not accepting visits by or the repatriation of *harkis* to its territory.<sup>56</sup> In this way particularly, *harkis* still face discrimination in Algeria. The children of *harkis* have to recognize their parents’ crimes in order to get a visa<sup>57</sup>. As of now, the controversy has not developed further.

**Colonization and textbooks:** Teaching the “positive aspects of colonisation” was proposed by MPs in the 2005 memory law, “Recognition by the Nation and National Contribution in Favour of French Repatriates.” This mention was withdrawn following a fierce controversy with Algeria, leftist parties, and historians and teachers in France. As said earlier, generally speaking historians and teachers are opposed to political interference and memory laws on teaching and research.<sup>58</sup>

The contested clause stated, “The school programs recognize in particular the positive role of the French presence overseas, especially in North Africa, and give the history and the sacrifices of the French army fighters from these territories their eminent place.”<sup>59</sup> This

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<sup>54</sup> Berdah, Arthur. (2017). “En Algérie, Macron Dénonce La Colonisation : «C'est Un Crime Contre L'humanité».” *LE FIGARO*.

<sup>55</sup> “Macron Says Time to Move on from Algeria's Colonial Past.” (2017). *Reuters*, Thomson Reuters.

<sup>56</sup> Rouaba, Ahmed. (2017) “Algerians Angry at France over 'Traitors'.” *BBC News*, BBC.

<sup>57</sup> *Histoirecoloniale.net* « les fils de harkis sont invités à rentrer en Algérie mais à s’excuser » 17 octobre 2005 Florence Beaugé in *Le Monde* quoting Saïd Barkat minister for Agriculture in Algeria.

<sup>58</sup> Henley, Jon. (2005).

<sup>59</sup> Loi n° 2005-158 du 23 février 2005 portant reconnaissance de la Nation et contribution nationale en faveur des Français rapatriés. version en vigueur du 24 février 2005 au 16 février 2006.



paragraph was repealed by decree on February 15, 2006 since the Constitutional Council ruled that the Parliament is not the competent authority on the question of textbooks.<sup>60</sup>

Nevertheless according to an opinion poll,<sup>61</sup> on the question: “Are you in favour of or opposed to the fact that the law states that school programs recognize the positive role of French colonization?”:

-64% of the French people questioned were in favour of this law;

- 71% of non-graduates surveyed say they are in favour;

-50% of those with at least 2 years of study beyond a high school degree (bac + 2) were opposed

Those in favour of this provision criticize “repentance” of the past; in their view it would be ridiculous to apologize for the past without recognizing the positive role of teachers and doctors in former colonies.

#### **IV. On the Shoah**

A third historical narrative facing contestation is the role of French authorities in the Holocaust. Today, through the French state’s recognition of its own role during WWII and the establishment of memorials, there has been a relative consensus on the end of the Gaullist myth. However, in certain suburbs, a new anti-Semitism with connections to radical Islam<sup>62</sup> and its effects on teaching the Shoah has emerged as stated by teachers posted in state schools with a majority of pupils from Muslim families<sup>63</sup>.

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<sup>60</sup> Décret n°2006-160 du 15 février 2006 portant abrogation du deuxième alinéa de l’article 4 de la loi n° 2005-158 du 23 février 2005 portant reconnaissance de la Nation et contribution nationale en faveur des Français rapatriés.

<sup>61</sup> [www1.rfi.fr](http://www1.rfi.fr) quoting an opinion poll upon request of Le Figaro, 2 december 2005

<sup>62</sup> A « manifeste contre le nouvel antisémitisme » ( [www.leparisien.fr](http://www.leparisien.fr) ), provoked in particular by two murders of elderly Jewish women in Paris in 2017 and 2018, was published on May 2, 2018, signed by more than 250 intellectuals, artists and politicians including one former President of the Republic and three former Prime ministers. On the other hand, opponents to this « manifeste » claimed that it is an « exaggeration ».

<sup>63</sup> A group of teachers wrote in 2002 « les territoires perdus de la République » Edition mille et une nuits, under the direction of Emmanuel Brenner alias the historian Georges Bensoussan

Following the end of the Second World War, the Gaullist myth perpetuated a state-endorsed historiography of resistance against the German Occupation and established distance between the Vichy government and the French people and the French Republic. According to the narrative, “France” and the true “state” were not represented by the government of Marshal Philippe Pétain and its collaboration with the Nazis. By focusing on French resistance and mitigating government involvement in the deportation of French Jews, the myth therefore absolved the true French state of both involvement and political responsibility.<sup>64</sup>

At the Commemoration of the Vélodrome d’Hiver roundup in July 1995, French President Jacques Chirac famously acknowledged France’s role in the Holocaust. “France, land of the Enlightenment and of Human Rights, land of hospitality and asylum, France, on that day, committed an irreparable act. It failed to keep its word and delivered those under its protection to their executioners...In passing on the memory of the Jewish people and of its sufferings, and of the camps; in bearing witness again and again, in acknowledging the errors of the past, and the errors committed by the State; in concealing nothing about the dark hours of our history, we are simply defending an idea of humanity, of human liberty and dignity.”<sup>65</sup> Those words were the beginning of the end for the Gaullist myth.

Today there is also a memorial for the victims of the Shoah in Paris which lists the names of 76,000 Jewish victims.<sup>66</sup> It serves as a reference for those asking for the creation of a slavery memorial that would display the names of the 200,000 slaves who were freed in 1848.<sup>67</sup>

**Plaques on public schools in Paris:** Against the background of the recognition of the Shoah in France and the complicity of the Vichy Government, on street facades of all Parisian state schools plaques have been set recalling that Jewish pupils living in Paris were deported to death camp in Germany.

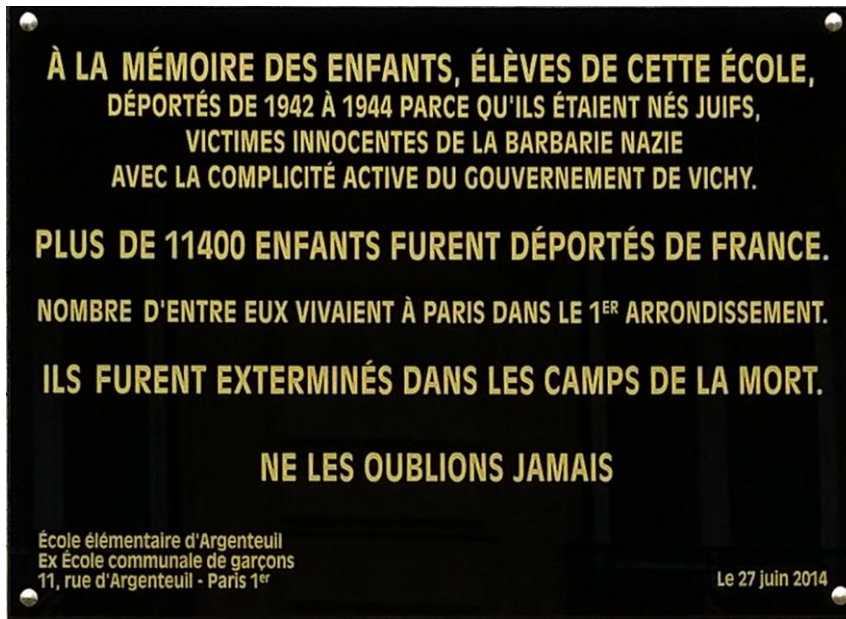
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<sup>64</sup> Clifford, Rebecca. (2013). *Commemorating the Holocaust: the Dilemmas of Remembrance in France and Italy*. Oxford University Press, pp. 25-70, 182-220.

<sup>65</sup> Guerrier, Sophie (2014). “Le Discours De Jacques Chirac Au Vel D’hiv En 1995.” *FIGARO*, 31 Mar. 2014.

<sup>66</sup> “The Wall of Names.” *Mémorial De La Shoah*, Mémorial De La Shoah, Musée, Centre De Documentation, [www.memorialdelashoah.org/en/the-memorial/the-spaces-of-the-museum-memorial/the-wall-of-names.html](http://www.memorialdelashoah.org/en/the-memorial/the-spaces-of-the-museum-memorial/the-wall-of-names.html).

<sup>67</sup> Zinzou, Lionel, and Marc-René Bayle. (2017).



Plaque on the building at 11 rue d'Argenteuil in Paris: "In memory of the children of this school deported in 1942 because they were Jews, innocent victims of Nazi barbarism and with the complicity of the Vichy Government. More than 11,400 children were deported from France, among them those living in the first district. They were exterminated in the death camps. We will never forget them."

Even if there is general public consensus on the connection between the Shoah and anti-Semitism, there has also been a growing number of "new" anti-Semitic incidents, from tags on synagogues, insults against Jewish pupils in some suburban schools, to two murders in 2017 and 2018. Since the beginning of 2000 - in connection with anti-Palestinian violence in Israel - second generation migrant resentment of being socially and economically discriminated against and, more recently, growing radical Islam.

## **V. On the Christian past of France and state religious neutrality and secularism**

Against a background of tension in France over radical Islam, governmental cautiousness prevails when it comes to religion in public spaces. Courts are seized by areligious "free thinkers," which impacts religions across the board. Attention has been paid to religions such as Catholicism and legal rulings involving Christian crosses or Nativity scenes. Today more focus is on the impact of secularism on Islam and criticism from those communities that legal secularism discriminates against their religion.

One example of judicial secularism in the public space took place in Ploërmel, a small town in the Morbihan region, on October 25, 2017. France's Council of State ruled that the

construction of a cross over the statue of John Paul II (an addition which made the statue 7.5 meters high) was deemed "contrary" to the law of separation of Church and state.<sup>68</sup>



Controversial statue of John Paul II in Ploërmel, France, which contravenes Article 28.

There are a number of legal texts operating in France by which the Council of State and the court can derive their secular rulings. Article 1 of the Constitution states that “France shall be an indivisible, secular, democratic and social Republic. It shall ensure equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs.”<sup>69</sup>

The Act of 9 December 1905 regarding the separation of Church and State creates obligations for national and local governments, firstly by requiring them to ensure freedom of conscience and guarantee the free exercise of religions, and secondly, to ensure the neutrality of public officials and public services with regard to religions, in particular by neither recognising nor subsidising any of them.

Article 1: "The Republic ensures freedom of conscience. It guarantees the free exercise of religions subject only to the restrictions set out hereinafter in the interest of public order.”

Article 2: “The Republic does not recognise, employ or subsidise any religion...”

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<sup>68</sup> Le Parisien avec AFP. (2017). “Le Conseil D'Etat Ordonne Le Retrait D'une Croix Sur Une Statue De Jean-Paul II.” *Leparisien.fr*, Groupe Le Parisien.

<sup>69</sup> France. (1958). The French Constitution, adopted by the referendum of September 28, 1958 and promulgated on October 4, 1958. English translation. Constitutional Council. Art. I.

Article 28: “It is prohibited, in the future, to raise or affix any religious sign or emblem on public monuments or in any public location whatsoever, with the exception of buildings used for worship, burial land in cemeteries, funerary monuments and museums or exhibitions.”<sup>70</sup>

**Council of State interpretation:** The purpose of these provisions is to ensure the neutrality of national and local governments with regard to religion, and they prohibit the installation of signs or emblems in a public location that demonstrate the recognition of a religion or mark a religious preference. Nevertheless, the law allows for some exceptions to this prohibition. As outlined by Article 28 above, public persons may affix such signs or emblems in a public location for an exhibition, for example. In addition, as the law cannot be *ex post facto*, the prohibition was applied only to violations after the law’s implementation. Thus, legislators preserved all signs and religious emblems set before the 1905 law. For this reason, there are thousands of pre-1905 churches- which are owned by the state-with Christian emblems throughout France.

**Council of State on nativity scenes (crèche):** In 2018, the Council of State reaffirmed its 2016 ruling over the legality of displaying nativity scenes in the public space. Rather than outright banning nativity scenes in public, the Council of State stresses the importance of weighing context when deciding whether a display violates the principle of secularism (*laïcité*) in France. Firstly, the ruling recognizes that a Christmas crèche is a symbol with the potential for many meanings. On the one hand, it is a famous Christian motif and can thus be considered religious in nature. But the nativity scene is also a familiar image that often appears during the end-of-year holidays, a context which does not always hold religious significance for those who participate.<sup>71</sup>

Considering these different meanings, the Council of State ruled in 2018 that, “a public person, in a public location, can only legally set up a Christmas crèche when it is of a cultural, artistic or festive nature, and the display cannot recognize a religion nor indicate a religious preference.” The ruling continues by stating that in order to accurately gauge whether a display meets these criteria, decision-makers should take into account the context of the display, which should not proselytize, the specific conditions in which the

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<sup>70</sup> Loi du 9 décembre 1905 concernant la séparation des Eglises et de l’Etat, version en vigueur au 3 juillet 2018.

<sup>71</sup> Décision n° 395223 du 9 novembre 2016 du Conseil d’Etat

crèche is set up, including the location, and any local customs. Furthermore, the situation varies depending on whether the location is a public building, the headquarters of a local authority or a public service, or another public location.<sup>72</sup>

Within the confines of public buildings (including the headquarters of local assemblies or public services), if a public person sets up a nativity scene, unless special circumstances deem that it absolutely demonstrates a cultural, artistic or festive character, it cannot be considered in compliance with religious neutrality. The criteria for a cultural, artistic, or festive character, however, are somewhat ambiguous.<sup>73</sup>

In other public locations, such as on a public highway, if the display accords with the festive nature of installations related to end-of-year celebrations, it is possible for a public person to set up a Christmas crèche during this period. However, the display cannot constitute an act of proselytizing or advocate a religious opinion.<sup>74</sup>

A small organization, the Federation of Free Thought, is behind the judicial move in almost every lawsuit that relates to Christian symbols in public spaces. According to this federation, “We don’t go around with chainsaws, dreaming of cutting down all the crosses in France... Any religious statue or cross built before 1905 has the right to remain standing. We only reject them when they were erected after this date, and are located in public places. This last point is important. If a farmer erects a cross in his field, that is his right. But the state cannot promote a religion: it must be neutral.”<sup>75</sup>

The Federation of Free Thought traces its historical roots to famous French freethinkers in the mid-1800s, including Jules Ferry, Jean Jaurès, and Victor Hugo. “Free thinking is based on the separation of Church and State, pacifism, the rejection of the exploitation of man by man, and the rejection of religion on a philosophical level.”<sup>76</sup> Thus, their strong defence of the 1905 secularism law stems from a rich French heritage of philosophical thought.

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<sup>72</sup> Ibid.

<sup>73</sup> Lombard-Latune, Marie-Amélie. (2016). “Crèches: Le Conseil D’État Les Autorise Sous Strictes Conditions Dans Les Bâtiments Publics.” *FIGARO*.

<sup>74</sup> Décision n° 395-223 CE du 9 novembre 2016.

<sup>75</sup> “Who Pushed for Pope John Paul II’s Cross to Be Removed?” (2017). *La Croix International*, La Croix Network.

<sup>76</sup> Ibid.

Despite its judicial activity, the Federation of Free Thought remains a small movement with about 5,000 paying members.<sup>77</sup> Thus its impact on mainstream public opinion is limited; in the France of today there is no more radical controversy between the State and the Catholic church. The situation is quite different in regards to Islam, a growing religion in France.

**Secularism's impact on Islam:** the debate on neutrality and secularism is today more about Islam. Recent legal controversies have caused several politicians and local communities to question or ask for the equal application of the 1905 Law of Separation to all religions. For example, Muslim parents in local schools demanded halal meals that the city mayor refused to deliver for the sake of secularism, and Muslim street preaching in the absence of mosques is highly debated. For these reasons, critics argue that the law favours long-standing French religions, such as Catholicism, at the expense newly transplanted religions, such as Islam.

In the first place, the 1905 Law of Separation prohibits the state maintenance of religious buildings built after 1905. As this does not apply to most Catholic churches in the country, they are still maintained at public expense, although not always on time and to the extent that the church would like. With the exception of citizens in Alsace-Lorraine, which was not under France jurisdiction during 1905 and is thus exempt from the law, religious communities now have to build and maintain new religious facilities at their own expense. This disproportionately impacts newly settled religious communities, such as followers of Islam. For this reason, Nicolas Sarkozy, when he was Minister of Interior, advocated for funding Muslim cultural centres in addition to those of Catholicism, Protestantism and Judaism.<sup>78</sup> He also advocated for organizing Imam training in France rather than in Arab countries to better educated future Imams about French secular principles, equality between the sexes, or French language and history.

The recent wave of terrorist attacks in France has only contributed to tensions with part of the Muslim community. After the 2015 terrorist attacks, at least 20 mosques found to be

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<sup>77</sup> Ibid.

<sup>78</sup> World Heritage Encyclopedia. "1905 French Law on the Separation of Church and State." *Project Gutenberg Self-Publishing*, World Library Foundation, [www.self.gutenberg.org/articles/eng/1905\\_french\\_law\\_on\\_the\\_separation\\_of\\_church\\_and\\_state](http://www.self.gutenberg.org/articles/eng/1905_french_law_on_the_separation_of_church_and_state).

"preaching radical Islamic ideology" were closed.<sup>79</sup> There are also tensions around street preaching. In response to concerns over extremists potentially financing mosques in France, Muslim organizations have fielded the possibility of a halal food tax as an alternative avenue for legal funding.<sup>80</sup>

A challenge: how can empathy for France and its history be promoted in French schools when its past has its own controversies, such as slave-trafficking, colonization, or strained relations between religion and state? According to Marc Bloch<sup>81</sup> (a resistance fighter, an historian, and a Jew assassinated by the Germans in 1944), "there are two categories of Frenchmen who will never understand the history of France, those who refuse to be moved by the memory of the coronation of Reims; those who read without emotion the story of the celebration of the Federation (1790)." This famous quote alludes to the historic struggle between secular Republicans, on the one hand, and the Monarchists and the anti-republican Catholics, on the other hand. Today the debate is more about the visions shared by traditional secular French, on the one hand, and some second generation migrants from former colonies- a number of which are Muslim- and French descendants from slaves, on the other hand. Is it possible today to gain such a common understanding of French history?

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<sup>79</sup> Serhan, Yasmeeen. (2016). "France's Disappearing Mosques." *The Atlantic*, Atlantic Media Company.

<sup>80</sup> Chadwick, Vince. (2016). "French Muslims Consider Halal Levy to Fund Mosques." *POLITICO*, POLITICO.

<sup>81</sup> In Bloch, Marc. (1990). *Strange Defeat*. Paris: Gallimard.