

Religion, Discrimination and Assimilation

**A Comparison of Contemporary France and the
United States**

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France and the United States are both secular Western countries that are founded upon similar Enlightenment ideals. By virtue of these similarities, one might expect these countries to have similar relationships between church and state. In actuality, however, the secularism that France and the United States both value is a very loosely defined concept whose interpretation and application can widely vary. Specifically, these countries sharply differ in how they interpret the principle of segregation of church and state, how they organize religious diversity, and how the state treats it. Each of these countries' relationships with religion profoundly affects the assimilation of a minority group. France interprets its secularism as a stark relegation of religion to the private sphere, and in passing the recent headscarves ban, has introduced barriers for the nation's Muslim subpopulation. Meanwhile, the United States' culture of religiosity allows for private matters, such as sexual orientation, to become a public concern, as is the case in the ongoing debate surrounding same-sex marriage. While both countries' debates discuss religion's role with respect to the preservation of national integrity, France and the United States should instead recognize that they are actually depriving these minorities of a sense of national belonging and work to encourage further civic assimilation.

While France's decision to ban the headscarf to encourage assimilation might seem counter-intuitive, the country's modern history with respect to religion reveal the motivations, which have resulted in a decidedly anti-religious political and cultural climate. France was originally governed by a rigid social system, known as the *Ancien Régime*, where the clergy comprised the First Estate. While the Church was responsible for collecting the tithe and operating hospitals and schools, the institution also had powers of censorship and owned about 15% of the land in France. The upper clergy, which consisted largely of bishops and abbots, were often corrupt and used their position to acquire wealth and property. Consequently, the French bourgeoisie and wage-laborers grew to strongly resent the Church.

During the Revolution of 1789, the French public overthrew the existing social and political system. Though the Church endured, the new French government attempted to settle its financial issues by confiscating and auctioning off the Church's land and assets. The state also radically restructured Church hierarchy and demanded that the

clergy swear allegiance to the French government, thereby subordinating the church to the state. Despite this, the new French government did make some allowances for religion. Article 10 of the Declaration of the Rights of Man, a founding document listing the rights every French citizen was entitled to, stated: "No one shall be disquieted on account of his opinions, including his religious views, provided their manifestation does not disturb the public order established by law."¹ Thereby, each French citizen would be allowed to practice the religion of their choosing, so long as they do not upset the public order.

Following the Revolution, Napoleon Bonaparte signed the Concordat of 1801 with the Pope, officially bringing the Catholic religion under state control, but also allowing the Church to run itself so long as it confined its authority to religious affairs. It also designated Roman Catholicism, Lutheranism, Calvinism, and Judaism as official religions. In 1877, however, more radical Republicans came into power. This group wanted to remove all traces of the Catholic Church's influence in political and social affairs.² As a result, the French government passed the 1905 Law on the Separation of the Churches and State. Significantly, this law stipulated that: (i) no religion could be supported by the state either financially or politically, (ii) everyone has the right to follow a religion, but no one is obligated to do so, and (iii) religious education at school is strictly forbidden.³ Following a bitter struggle between church and state, this law established the distinct French form of secularism known as *laïcité* and was seen as "a step toward modernity, transforming the Republic from a community governed by the Church to one governed by law."⁴ The principle of secularism has since formed an integral part of French culture.

¹ The National Assembly of France, "Declaration of the Rights of Man," *The Avalon Project: Documents in Law, History and Diplomacy*, August 26, 1789, http://avalon.law.yale.edu/18th_century/rightsof.asp.

² Guerlac, Othon, "Church and State in France," *Political Science Quarterly* 23 (1908): 262.

³ L'Assemblée nationale, "Loi du 9 décembre 1905 relative à la séparation des Églises et de l'État," *Assemblée Nationale*, December 9, 1905, <http://www.assemblee-nationale.fr/histoire/eglise-etat/sommaire.asp#loi>

⁴ Kastoryano 1233.

Laïcité has many contemporary consequences. While the United States has interpreted secularism to allow religious freedom following a history of persecution, France has explicitly excluded religion from public political life and is marked by persistent anti-religious and anti-clerical political discourse. Technically, laïcité hinges on a principle of equality, where no religion is given preference over any other. As a result, the state becomes neutral in religious affairs so as to ensure a freedom of conscience, whereby individuals can safely practice the religion of their choosing.⁵ By championing the constitutional norms of equality, neutrality, and tolerance, laïcité is intended to bring French citizens together, foster a French uniqueness, and define an image to project to the rest of the world.⁶

In practice, however, laïcité does not offer the equality it promises, especially towards immigrant communities. The French commonly believe that acceptance and internalization of laïcité is an important step in immigrants' assimilation, since it enables the creation of citizens who are indifferent to their separate linguistic or religious origins. In reality, however, immigrants often turn to religion in an attempt to preserve their traditions, compensate for the loss of past common references, and establish new social bonds. While France has decided to relegate religion to the private domain as a response to prior abuses by the clergy and sectarian conflict, immigrant communities have not had similar conflicts. As a result, immigrants find the French approach of taking the public out of its religious and communal constraints, in favor of integration into a political community, unnatural.

Historically, Jews have undergone a struggle of national assimilation in France to a present state of relative acceptance. Judaism is the longest established non-Christian religion in France. Although Jews were granted full citizenship during the French Revolution, they have been long treated suspiciously. Many Jewish refugees immigrated to France from elsewhere in Europe, because of the promise of political and religious

⁵ Ibid.

⁶ T. Jeremy Gunn, "Religious Freedom and Laïcité: A Comparison of the United States and France," *Brigham Young University Law Review* 419 (2004): 422.

asylum.⁷ While Revolutionaries were accepting towards Jews, the anti-republican movement Action Française, which garnered support from the Catholic Church, army, civil service, and judiciary, advocated open anti-Semitism, under the rationale that Jews were potential traitors who could never integrate into a Christian country.

These fears were not unique to Action Française. For example, at the end of the nineteenth century, France's Jewish population expanded with arrival of Jewish immigrants fleeing persecution in Russia and Eastern Europe, just as the country experienced a slowdown in industrial growth, resulting in a tense international climate and economic insecurity. As a result, the French public was especially suspicious of "foreign elements" in France.⁸ These fears culminated in the infamous Dreyfus Affair, wherein the French government convicted and exiled the Jewish Captain Alfred Dreyfus for treason. Once military officials discovered exculpatory evidence, they suppressed it and began a cover-up. This case revealed divisions within French society as well as the implicated Catholic hierarchy.

Similarly, during the economic slump of 1930s, France received multitudes of Jewish refugees from the Nazi regime, resulting in outbreaks of anti-Semitism. Once Nazi Germany defeated France during World War II, the country was ruled by the collaborationist Vichy regime. The Vichy regime enacted anti-Semitic laws and sent 75,721 Jewish refugees and French citizens to Nazi death camps.⁹ After World War II, France discovered the atrocities committed by the Vichy regime and condemned them. Furthermore, the state attempted to make amends through holding trials for war crimes, opening hidden archives, offering compensation to survivors, and ensuring that schools have compulsory lessons on Vichy crimes. France denies any current anti-Semitism, though it persists in less overt forms. For example, the National Front (FN), a right wing French political party that emphasizes French nationalism and controls on integration, has been associated with xenophobia and anti-Semitism. In fact, the founder of the FN, Jean-

⁷Paul Webster, "The Vichy Policy on Jewish Deportation," *BBC History*, published Feb. 27, 2011, http://www.bbc.co.uk/history/worldwars/genocide/jewish_deportation_01.shtml.

⁸ Ibid 104.

⁹ Ibid.

Marie Le Pen, went so far in 1985 as to describe the Holocaust as “a point of detail” of the Second World War.¹⁰ Nationalist movements such as these have gained support since 1981, which helps to explain the appearance of the *affaires du foulard*.

French Jews have largely accepted laïcité, by generally confining their religious practices to the private sphere and avoiding challenging public conventions. This generalization was complicated by the advent of Sephardic Jews from Northern Africa, who represent a greater religious orthodoxy. As a result, the number of Jewish schools has increased, and they are teaching more religious content. These activist Jews have also lobbied for exemption from Saturday morning classes. Nevertheless, in the past twenty-five years, the Jewish issue has been largely left alone in favor of tackling the issue of the assimilation of the much larger Algerian community.¹¹

Just as the French government had formerly targeted the Jewish subpopulation, France has also had a complicated history with respect to Islam abroad. Among its many colonial holdings in Africa and Asia, France had introduced a civilian administration in Algeria, dividing the territory into three departments of France. French citizens in Algeria reserved the right to vote in French elections, to run their own local governments in French districts, and maintain provincial autonomy. As a result, the one-ninth of the Algerian population that had European status dominated over the ethnic Algerians. The French justified their rule as a “civilizing mission,” since they were bringing secular French values to a people who lacked them.¹² While this implied that the Algerians might be able to benefit from French civilization, the French also began to depict racist images of Muslims and North Africans. In fact, the French attributed Arab decadence to Islam, which they believed ran counter to science and reason and marked Arabs as a separate race altogether. They additionally waged what historian Edmund Burke III calls *kulturkampf*; the French closed religious schools and libraries, seized the property of the Islamic foundations that supported them, and extended naturalization only to those Arab

¹⁰ Peter Davies, *The National Front in France: Ideology, discourse and power* (London, UK: Routledge, 1999), 21-22.

¹¹ Ibid.

¹² Joan W. Scott, *Politics of the Veil* (Princeton, NJ: Princeton University Press, 2007), 46.

men who were willing to relinquish their “indigenous status,” which in part required renouncing Islamic law.¹³

During 1914, Algerians were allowed emigration into France to serve in the war effort. Over the next fifteen years, droves of poor peasants came to France in search of work. They worked unskilled labor and lived in poor neighborhoods associated with prostitution, homosexuality, and crime. French workers who feared competition, government officials who feared for security, and colonial lobbies that wanted to keep cheap labor in Algeria furthered racist sentiments.¹⁴ Meanwhile, Algerians in their home country were stirring of modern nationalism, and a large portion of revolutionaries rallied behind Islam as a common cause. By 1954, Algerian nationalist movements evolved into systematic warfare. The National Liberation Front (FLN) wanted liberation from France, while the French in Algeria maintained that their presence was necessary to liberate Algeria from the grip of traditionalism. Charles de Gaulle who conceded to the FLN in 1962 justified his action by describing how Muslims could not possibly be absorbed into France, since they would overwhelm the country.¹⁵

In France’s relationship with Algeria, the headscarf was a potent symbol. The headscarf represented the subjection of women. Since the Algerian women were veiled, the French believed that they had less agency than French women and thus needed to be emancipated. Additionally, the headscarf represented a refusal of Western values in favor of what the French believed was stubborn adherence backwards tradition. In fact, at a pro-France rally on May 16, 1958, wives of the occupation’s military officers lifted the veils off Muslim women, so as to liberate them and make them more like French women.¹⁶

France’s characterization of the headscarf from the Algerian War endures in the nation’s recent debate about the acceptability of headscarves in public schools, or *affaires du foulard*. The debate has emerged in distinct waves in 1989, 1994, and 2003, and reflects a gradual hardening of the government’s position, because of increasing anti-immigrant sentiment. The first case in October 1989 involved three Muslim girls who

¹³ Ibid, 46-47, 49.

¹⁴ Ibid, 51.

¹⁵ Ibid, 61.

¹⁶ Ibid, 63.

were expelled from their middle school in Creil for refusing to remove their headscarves. The students' principal, Ernest Chenière, maintained that he was acting in accordance with laïcité, which is a foundation for the school system. This incident coincided with Khomeini's infamous fatwa against Salman Rushdie and the start of the Palestinian intifada. Socialist minister Lionel Jospin contained the situation by referring to the highest administrative court in France, the Conseil d'Etat, which deals with the legality of actions undertaken by public bodies. The Council ruled that signs of religious affiliation were not necessarily incompatible with laïcité, so long as the signs were not ostentatious or polemical and did not interfere with the liberties of other students. Jospin left it to local school authorities to decide on a case-by-case basis as to whether headscarves were acceptable or not.

In 1993, Ernest Chenière, now a deputy for the center right party, the Ralliement pour la République (RPR), proposed a bill banning "ostentatious" signs of religious affiliation. After a year of Chenière campaigning, the minister of education, François Bayrou, legally prohibited ostentatious symbols, which would introduce difference and discrimination into an educational community that should be united. While the same arguments were repeated, the Conseil d'Etat reaffirmed its 1989 ruling that school officials are best to interpret the actions of their students and rejected Bayrou's claim that certain signs could be separated from the intention of those wearing it. In the wake of this outburst, the minister of social affairs appointed a woman of North African origin to serve as an official mediator for problems linked to the veil. This appointment resulted in a drastic drop in the number of disputes.

The most recent phase in 2003 was prompted by Nicolas Sarkozy, who was then minister of the interior, and insisted that women pose bare-headed for official identity photographs. The controversy surrounding this policy then extended back to the school debate. Socialist deputy Jack Lang presented the bill to the National Assembly, and included other religious symbols for the sake of universal applicability. In June, the National Assembly created an investigative body to gather information and in July, President Chirac appointed the Stasi commission to examine the feasibility of the law. In their final report, the Stasi Commission reaffirmed the importance of the secularist

tradition and called for an outlawing of all “conspicuous” signs of religious affiliation in public schools.

As a result, in March 2004, France adopted a new law prohibiting children in public schools from wearing clothing and insignia that “conspicuously manifest a religious affiliation” which raised controversy worldwide. Though the law banned students from wearing Islamic headscarves, Jewish skullcaps, and large crosses, it was targeted primarily towards the headscarf, but included other religious symbols so as to comply with a legal requirement of universal applicability.¹⁷ The law was proposed by the conservative party, UMP, and supported by the opposition Socialist Party. It was approved by a vote of 494 to 36 in the National Assembly, 276 to 20 in the Senate, and strongly supported by popular opinion throughout the country.

The headscarf affair is unique from the earlier Jewish issue in that it is presented legally within the context of a nation that claims religious tolerance. The French reconcile this paradox by presenting the law as a universally applicable principle and by characterizing racist concerns as a question of national interest. As previously described, the French nation has a different form of integration than does the United States – in order for immigrants to become French, they are expected to give up their religious or cultural traditions in favor of French values. The contemporary French Muslim immigrant community complicates the assimilation process by demanding recognition and representation for Islam within French society. By collectively identifying with Islam within the context of European political traditions, French Muslims blur the accepted boundaries between the public and private and challenge accepted models of national integration. The headscarf further frustrates this process in that it preserves a cultural tradition within the French national identity. Many French officials view this as a challenge to the law of the Republic by the law of the Qur’an, which they believe is practiced in the Muslim communities in the banlieus.

Furthermore, the French view the headscarf apprehensively, since it represents a stark departure from overall French attitudes towards religion. In fact, studies on French religious expression show a constant decline in practice of all religions outside the private sphere since the principle of *laïcité* was established. After the controversy surrounding

¹⁷ Ibid, 2.

the headscarf affair in 1989, “the principle of *laïcité* has undergone several interpretations and has emerged as the ‘official religion’ of France.”¹⁸ In fact, according to a 2011 Pew Global Report, 62% of the French population believes that relations are bad between Muslims and Westerners – a high for all Western countries.¹⁹ The poll also demonstrates that 54% of French believe that Muslims do not want to integrate. The headscarf affair in France suggests that “the issue is no longer the assimilation of immigrants but the recognition of a religion – Islam – and of a new emerging minority in individual European countries and the European Union as a whole.”²⁰

Although French politicians proposed the headscarf ban to reinforce *laïcité* and strengthen French national identity at the expense of religious identity, the opposite effect occurred. The move actually helped strengthen Islam’s role in the collective identity of North African immigrants and their descendants, such that religious identity is more important to them than their national origins. Charles Hirschman described how in the case of immigrant assimilation in America, “national origins blend[ed] into religious identities by the second or third generation.”²¹ In the French case, the emphasis placed by public authorities on religious identification has helped further strengthen the immigrants’ religious identification emerges, rather than the type of generational assimilation that occurs in the United States.

Religion serves different functions in the United States and France. In the course of United States history, religion served the important function of uniting migrants by national and/or religious origin so as to help them integrate into the community structure. On the other hand, in France, religion is an assertion of an alternative identity. In the case of North African migrant populations, nationality and religion have been officially linked in both their countries of origin and France. Thus, French authorities consider religion

¹⁸ Kastoryano.

¹⁹ “Common Concerns About Islamic Extremism: Common Concerns About Islamic Extremism,” *Pew Research Center: Global Attitudes Project*, published July 21, 2011, <http://pewglobal.org/files/2011/07/Pew-Global-Attitudes-Muslim-Western-Relations-FINAL-FOR-PRINT-July-21-2011.pdf>.

²⁰ Kastoryano, 1235.

²¹ Charles Hirschman, “The Origins and Demise of the Concept of Race,” *Population and Development Review* 30, no. 3 (2004): 385-415.

part of the reason North African communities remain economically marginalized and socially isolated. As a result, these authorities advocate an emphasis on French identity at the expense of other identities – including religion. By enacting laws such as the ban on headscarves, these groups become more marginalized. In order to properly foster national identity within these communities, France must acknowledge alternative identities and reconcile their interpretation of secularism to create a tolerant atmosphere.

Furthermore, the French method by which to enforce *laïcité* helps undermine contributions Islam can make in assimilation. In order to address the problems Islam poses toward secularism, the French state must adapt its current stance. Institutionally, the state might reshape itself to allow general recognition of Islam or extend these institutions to include the newly emerging Islam in European societies. This hinges on the institutional assimilation of diversity. Politically, states must be able to reconcile equal institutional recognition and individual national citizenship. In order for contemporary Islam to be accepted as part of France's historical continuity, the country must promote common membership as well as a common civic culture. While Islam does provide a sense of identity other than what would otherwise arise from secular, cultural associations subsidized by public agencies, Muslim agencies can work alongside cultural associations to further a mutual social utility.

France's *affaires du foulard* are essentially an issue of multiculturalism in relation to the neutral state. Kastoryano describes that "Islam today raises a double challenge: that of a minority in a republican state that rhetorically rejects the very concept of minority, and that of a religion in the public space."²² Despite France's appropriation of religion to the private sphere, the headscarf is an affirmation of identity for an immigrant subpopulation. Thus, it reveals politically that a minority religion has become established in French society and institutions, especially public schools. Rather than fight religious identification through bans, France should embrace a more positive secularism, which would allow French Muslims to be nationalist and religious, without placing either identity at odds with the other.

In the United States, there is a similar conflict of identities, since homosexuals have long been perceived as un-American. In fact, as this minority group had been

²² Kastoryano 1246.

labeled as sexual deviants, Americans have long glossed over their history and development. Despite broader cultural antagonism, homosexuals have lobbied for equal rights for decades and are even now just getting the right to marry in a few states. The gay rights movement has encountered these obstacles, because Americans are uncomfortable with homosexuality as it relates to their cultural values and ideals, which in large part are informed by religion. Nevertheless, homosexuals can gain acceptance and equal rights, without sacrificing religion's role in the United States.

The United States was founded upon the same Enlightenment ideals that had influenced France. In fact, throughout the Declaration of Independence as well as the Constitution, the Founding Fathers prove their commitment to these values, when they describe the "self-evident truths" of liberty and equality. Enlightenment values notably helped shape America's secular worldview, prevent the establishment of any national religion, and secure a commitment towards religious toleration.²³ Though the United States is officially secular, the nation has long meshed culture and religion. The country has played host to many different religious groups, seeking religious toleration. In order to cope with their new environment, these groups would use their religious affiliation as a means of self-identification as well as a way to preserve their minority cultures.

Throughout their history, Americans have used religion to unify and motivate themselves. During the colonial period, preachers used religion to preach individual conscience, which was sovereign even over Kings.²⁴ Later, during the Civil War, abolitionists appealed to religion to cast slavery as evil. In reaction to the increased religious sentiment of the period, the U.S. Treasury even included "in God we trust" on American currency. Then, throughout the late 19th and early 20th centuries, religious fervor drove Prohibition, women's suffrage, the anti-communist crusade, the civil rights movement, and protests against the Vietnam War. From the country's inception, religious institutions have served as a source for moral authority, inspirational leadership, and

²³ Darren Staloff, *Hamilton, Adams, Jefferson: the Politics of Enlightenment and the American Founding* (New York, NY: Hill and Wang, 2005), 3.

²⁴ Andrew Kohut and Bruce Stokes, *America Against the World: How We Are Different and Why We Are Disliked* (New York, NY: Henry Holt and Company, LLC, 2006), 95.

organizational muscle.²⁵ Thereby, religion maintains an important place in contemporary America.

Despite the United States' insistence on the separation of Church and State, religious appeals pervade American political discourse. Americans use religion to justify retaining capital punishment, maintaining a constitutional right to arms, and not providing health care for the poor. In many of the United States' current debates, including abortion, stem-cell research, and homosexual marriage, American political conservatives regularly appeal to religion.²⁶ In this way, America differs from most other developed nations that have very different cultures of faith, where religion a more minimal role in political discourse. Religion plays a more active role in America, since church attendance and Christian beliefs, such as in the existence of God, are considered part of America's social culture, as is demonstrated by the higher numbers of Americans who report going to Church and praying regularly than their counterparts in other developed nations.²⁷ Religion has thus become intertwined with the "American way of life" and consequently to act irreligiously is to act immorally, which is to act un-American. Moreover, most Americans view the United States as a Christian nation and believe that God rewards their faith with strength.²⁸ Many political conservatives seek to make their beliefs national policy, because of the strength of this religious fervor and its connection to patriotism.²⁹

Religion has a complicated role in America, since the ideal must be reconciled with other American values. The United States is paradoxically a religiously charged nation that clings to individual liberties and action. On a personal scale, Americans are characterized as action-oriented, individualistic, and opposed to government intervention. As such, they care more for personal freedom than governmental guarantees of social justice. According to findings by University of Michigan's World Values Survey,

²⁵ Ibid 93.

²⁶ Ibid 34.

²⁷ Will Herberg, *Protestant-Catholic-Jew* (Chicago, IL: The University of Chicago Press, 1955), 35.

²⁸ Kohut and Stokes 97.

²⁹ Eddie Glaude, Jr., "Islamophobia and Religious Pluralism: America's Real History," *Huff Post: Religion*, August 26, 2010, http://www.huffingtonpost.com/eddie-glaude-jr-phd/is-it-time-we-got-rid-of-_b_694539.html.

America has “self-expressive” values, including: personal responsibility, technological advance, and the roles of government and private business, as well as traditional values, such as family, patriotism, and religious belief, which is typically more associated with less advanced nations.³⁰ In fact, the United States is the only religious rich country in the world with independently willed constituents, who are opposed to government involvement.³¹ As a result of America’s national religiosity and individualism, religion is not usually applied to foreign policy. In fact, when Lt. William Boykin justified War on Terror in religious terms, he garnered worldwide disapproval.³² Americans prefer to consult their religious beliefs to guide personal actions or ethical decisions.

Although personal beliefs usually refer to decisions outside the government’s influence, some personal decisions – such as gay marriage -- have cultural ramifications. For instance, white evangelical Americans overwhelmingly oppose gay marriage and a strong majority of them are against civil unions. According to this conservative view, homosexuality is a sinful that is unnatural, deviant, and indicative of disordered behavior. They further typify homosexuals as promiscuous, and thereby operating outside of normal American societal constructs. Though it would seem that allowing same-sex marriage would dispel these misconceived notions about homosexuals, these conservatives believe that accommodating and giving equal status to homosexual partners would serve to weaken the American political model and institution of marriage.³³ Congressman James Talent of Missouri explains “...it is an act of hubris to believe that marriage can be infinitely malleable, that it can be pushed and pulled around like silly-putty without destroying its essential stability and what it means to our society, and if marriage goes, then the family goes, and if the family goes, we have none of the decency of ordered liberty which Americans have been brought up to enjoy and to appreciate.”³⁴ Though a subset of American society feels like their social institutions are threatened by

³⁰ Kohut and Stokes 62.

³¹ Ibid 18-19.

³² Ibid 92.

³³ Nancy F. Cott, *Public Vows: A History of Marriage and the Nation*, (Cambridge, MA: Harvard University Press, 2000), 23.

³⁴ Cott 219.

redefinition, it is a natural part of the assimilation of the homosexual population in mainstream American culture.

Homosexuality was present in early 19th century America in the form of distinct cases of sexual anomaly, as well as city and jail communities. In spite of their presence, the United States' political, religious, and scientific communities followed the European tradition of labeling homosexuality as a crime, sin, or sickness.³⁵ Throughout the 1920s, so as to not raise the average American's alarm, the homosexual community would convene and communicate secretly. For example, homosexual males had used personal advertisements in certain physique magazines as a means of communication. In the period spanning from 1924 to 1956, the homosexual community in various American cities mobilized to preserve their rights through the creation of organizations, such as The Society for Human Rights, The Mattachine Society, and The Daughters of Bilitis. These organizations were noteworthy for starting the building of a support network for the homosexual subpopulation, which would prove useful, as the group would soon become subject to more discrimination.

Prior to World War II, the military had no official procedure for screening out homosexuals, because they did not have a psychiatric screening process. Psychiatrists, eager to help the war effort, managed to convince the War Department and Selective Service Representatives that this process would help prevent a recurrence of the psychiatric casualties of World War II, by removing potential casualties before they became military responsibility. Many psychologists of the era believed that homosexuality was a mental disorder, and that these men should be barred from service, for their, and the military's, own good.³⁶ Though this psychological screening further deprived homosexuals of their rights through overt discrimination, the United States government inadvertently created awareness of the homosexual community. The war also

³⁵ Salvatore J. Licata, "The Homosexual Rights Movement in the United States: A Traditionally Overlooked Area of American History," in *Historical Perspectives on Homosexuality: The Gay Past: A Collection of Historical Essays*, ed. Salvatore J. Licata and Robert P. Peterson, (New York, NY: The Haworth Press, 1981), 163.

³⁶ Allan Bérubé, *Coming Out Under Fire: The History of Gay Men and Women in World War Two* (New York, NY: The Free Press, 1990), 8-9.

fostered homosexuality in that it upset traditional social patterns, allowing “frequent anonymity and psychological pressures” that facilitated sexual experimentation and allowed some to discover their homosexuality.³⁷ Through identification and labeling, these homosexuals also became a recognized minority. Since they were increasingly harangued in their home communities, many homosexuals migrated to large cities, forming communities that fostered openness and visibility.

Although numerous authors had previously discussed homosexuality, biologist Alfred Kinsey took the United States by surprise. In his 1948 work, *Sexual Behavior in the Human Male*, Kinsey claimed that homosexuality was much more prevalent than previously perceived - he asserted that more than a third of the total male population has had some homosexual experience after the onset of adolescence.³⁸ While the accuracy of these reports may be contested, they did improve the perception of homosexuality from an abnormality to a natural sexual response. Furthermore, the work emboldened the homosexual subpopulation by bringing them national attention.³⁹

While academics were opening up to the homosexual population, the second Red Scare targeted them. During the early 1950s, a State Department official had testified before Senate that several dozen employees were fired on grounds that they were homosexuals. This issue caused uproar, and Republican leaders used it as a means of discrediting President Truman’s National Security Policy. In fact, according to a 1950 Senate investigation, “sexual deviates” were infiltrating the federal government and threatening the moral welfare of the nation.⁴⁰ The movement emphasized patriotism and anticommunism as important factors in public morality, so they targeted deviants whether political or sexual. Additionally, President Eisenhower issued Executive Order 10450, which classified homosexual Americans as security risks and excluded them from

³⁷ Licata 166.

³⁸ Donald Cory, *The Homosexual in America: A Subjective Approach* (Manchester, NH: Ayer Co Pub, 1975), 83.

³⁹ Terence Kissack, “Alfred Kinsey and Homosexuality in the ‘50s,” *Journal of the History of Sexuality* 9, no.4 (2000): 477.

⁴⁰ Allan Bérubé and John D’Emilio, “The Military and Lesbians during the McCarthy Years,” *Signs* 9, no.4 (1984): 759.

government employment.⁴¹ Homosexual advocacy groups opted to retreat at this time, but they were expanding in numbers and released magazines and other printed material airing their viewpoint.

During the 1960s, the homosexual community borrowed many of the same demonstration tactics as those involved in the civil right movement by protesting to emphasize their beliefs. Through these protests, these groups largely increased in numbers. Notably, in 1969, police raided a gay bar, the Stonewall Inn, in New York's Greenwich Village, initiating three days of riots. The Stonewall riots helped the gay rights movement transition from a group of activists to an expansive protest for equal rights and acceptance. The homosexual community was further publicized and aided by Harvey Milk, an openly gay politician who began his term by sponsoring a civil rights bill that outlaws sexual orientation discrimination. Furthermore, at the 1980 Democratic National Convention, Democrats decided to support gay rights, by revising their plank to the current: "All groups must be protected from discrimination based on race, color, religion, national origin, language, age, sex or sexual orientation."

The homosexual subpopulation began its activism in order to garner equal consideration and rights and has achieved many triumphs. In 1993, the U.S. military took an initial step by instituting the "Don't Ask, Don't Tell" policy, which would permit gays to serve in the military, but ban homosexual activity. Civil unions between gay couples were recognized legally in Vermont in 2000, but they stopped short of allowing them the title of marriage. By 2003, the U.S. Supreme Court ruled sodomy laws unconstitutional, since "liberty presumes an autonomy of self that includes freedom of thought, belief, expression, and certain intimate conduct."

Currently, Gay Americans seek the legal right to marry. While they have been campaigning for the right to marry since the 1960s, same-sex marriage became a national issue only recently. The debate began in 1993 when Hawaii's Supreme Court ruled in *Baehr v. Miike* that an existing law banning same-sex marriage would be deemed unconstitutional unless the state government could show some compelling need to discriminate against gay and lesbian couples. This case sparked a nationwide backlash, causing

⁴¹ Licata 167.

legislatures in more than 40 states to pass Defense of Marriage Acts (DOMAs), which define marriage exclusively as the union between a man and a woman.⁴² While states such as Connecticut, New Jersey, Rhode Island, Illinois, Delaware and Hawaii have followed Vermont's example in instituting civil unions, the newly created institution is not a suitable substitute for marriage. Civil unions may provide legal protection at the state level, but they omit federal protections and the dignity and clarity associated with the term "marriage".

Advocates for same-sex marriage point out that since only a few states have civil unions, it is uncertain as to how civil unions will be honored in other states. Furthermore, there are logistical issues, since in order for a couple to dissolve their civil union, they have to be residents of a state that honors the institution. Civil unions do not espouse the same legal rights as marriage, such as the right to take leave from work to care for a family member, the right to sponsor a spouse for immigration purposes, and Social Security survivor benefits that can make a difference between old age in poverty and old age in security. Since the federal government does not respect civil unions, a couple with a civil union will be in a kind of limbo with regard to governmental functions performed by both state and federal governments, such as taxation, pension protections, provision of insurance for families, and means-tested programs like Medicaid. Even when states try to provide legal protections, they may be foreclosed from doing so in joint federal/state programs.

Marriage and civil unions remain different, both in practice and in principle. By the very nature of a separate institution, civil unions encourage discrimination towards same-sex couples. After all, there are only a few states that have not taken a discriminatory position against same-sex marriages. Gay and lesbian couples should have

⁴² "An Overview of the Same-Sex Marriage Debate," *The Pew Forum on Religion & Public Life*, published April 1, 2008, <http://www.pewforum.org/Gay-Marriage-and-Homosexuality/An-Overview-of-the-Same-Sex-Marriage-Debate.aspx>.

the ability to travel freely without fear that their relationship will be disrespected.⁴³ In order to best assure that these relationships are respected, same-sex marriage should replace civil unions. If the states and federal government take strong stances affirming this groups right to marry, they will be acknowledging the social reality of the homosexual community and will help enable their general acceptance.

France has followed a similar path as the United States in its relations with the homosexual population, but they have come to acceptance far quicker. Though homosexuality had definitely existed prior, the Vichy regime in 1942 criminalized homosexual acts in which one of the partners is under 21 years old. As World War II progressed, the French collaborationist government engaged in a “Gay Holocaust” where these individuals were classified as undesirables. While the post-war French government did make amends for its treatment of the Jewish subpopulation, they did not do the same for homosexuals, who had not been targeted in such large numbers and who were still cast as “other.” In 1960, homosexuality was even classed as “un fléau social” like tuberculosis.

In response to this subjugation, the group Arcadie was established in 1955 to aid homosexuals who wanted assimilation and respectability. The group was influenced to become more revolutionary by the Gay Liberation in America, as well as the New York Stonewall Riots and general contestation following May 1968. Gay activism was further boosted by the AIDS crisis, and by 1982, the gay age of consent equalized with heterosexual age of consent at 15. Homosexual bargaining power strengthened in 1984 as the groups of Aides and Act Up-Paris united gays and lesbians in the struggle for recognition. By the 1990s, homosexuality became more visible in literature, film, and art. Legal recognition of same-sex couples, and access to the rights and benefits accorded to heterosexual married couples. This legislation, the *Pacte Civil de Solidarité* (PaCS) also provided benefits towards non-married heterosexual couples.⁴⁴ Currently, homosexuality is widely accepted in France and even the mayor of Paris is openly gay.

⁴³ Ibid.

⁴⁴ Lucille Cairns, “Sex and Gender in the cultural context,” in *Contemporary French Cultural Studies*, ed. William Kidd and Sian Reynolds (London: Hodder Education Publishers, 2000), .

Although homosexuality is broadly considered socially acceptable in France, the country does not allow same-sex marriage. Instead, France has retained PaCS, which guarantee social rights including access to health insurance, tax exemptions, and inheritance.

Despite these provisions, the French government grants the unions reluctantly; under the suspicion of fraud, the aforementioned rights are delayed before they take effect and *pacés* are denied rights toward conference of citizenship.⁴⁵ Although the country does not allow same-sex marriage either, France does not have a debate anywhere near as heated as the United States about same-sex marriage. The state of marriage in France largely explains this phenomenon. In the past generation, the French marriage rate has plunged more than 30 percent, even as population and birthrates have been rising. As such, growing numbers of couples are choosing to raise children, buy homes, and cohabit without becoming legally married. This lower marriage rate is driven by the newer generation's estrangement from religion, massive migration to urban areas, and increasing social acceptance for alternative lifestyles.⁴⁶ In fact, many heterosexual couples are choosing to get PACS instead, which they have dubbed "marriage light."⁴⁷

On the other hand, certain French politicians oppose the institutionalization of same-sex unions, since it would convey that homosexuality and heterosexuality are equally legitimate. Rather, they would prefer for gays and lesbians to remain "subversive" while staying out of marriage, in *unions libres*, so as to not compromise social norms. While France's privatization of marriage has led to both unmarried couples as well as "blended" (*recomposées*) families, French conservatives insist that changes within marriage should be counterbalanced by a refusal of change within filiation. Even if homosexuals are opting to have non-traditional relationships, these politicians would

⁴⁵ Eric Fassin, "Same Sex, Different Politics: 'Gay Marriage Debates in France and the United States,'" *Public Culture* 13, no. 2 (2001): 218.

⁴⁶ Molly Moore, "French Marriage Rate Plunges as Population, Birth Rate Rise," *The Seattle Times*, (Seattle, WA), Nov. 23, 2006.

⁴⁷ Scott Sayare and Maïa de la Baume, "In France, Civil Unions Gain Favor Over Marriage," *The New York Times*, (New York, NY), Dec 15, 2010.

prefer that the filial system not be disrupted. As a consequence, they oppose same-sex marriage only insofar as it would open the way to a radical change in filiation--which they define in universal terms through "sexual difference."⁴⁸

France differs largely from the United States in this matter, because of the place of marriage within society. Where France has grown increasingly disenchanted with religion, marriage remains an important American institution. Marriage creates families and kinship networks, influences individual identity, and is integral to American social order. After all, through marriage, a community recognizes and vows to honor the bond that a couple has undertaken.⁴⁹ Meanwhile, the American homosexual community is characterized as a sexual counterculture, whose social marginalization stems from communities' rejecting their bonds. Professor of Sociology Eric Fassin of the École normale supérieure describes the paradox of the acceptance of homosexuality, "Homophobia can thus be interpreted as both cause and effect of this sexual and political 'ghetto': gays live in a ghetto because they are rejected from the 'mainstream,' and they are rejected from the mainstream because they live in a ghetto."⁵⁰ Enabling same-sex marriage would help to remove this stigma, since it would bring the homosexual community within the framework of "normal" American culture. Americans also becoming more tolerant over time, due to increased visibility.

In both America and France, the state has a minority group that needs to be accepted institutionally. France's current attempts to assimilate the French Muslim subpopulation is misguided, since it advocates relinquishing one identity in favor of another, when both can exist in harmony. Furthermore, it further impresses colonialist attitudes in that it presupposes the superiority of a French model of liberation over a culture it does not completely understand. In the United States, same-sex marriage should be permitted as the next logical step in removing the social stigma associated with this group and ensuring them equal rights. While America does have a religiously charged culture, firm decisions taken by the state will result in increased tolerance towards the group and eventual acceptance. These measures should be undertaken so as to promote

⁴⁸ Fassin 231.

⁴⁹ Cott 1-2.

⁵⁰ Fassin 222.

equal representation with other religious groups, encourage national expressions of belonging, and promote a common civic culture.

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