

ANTIRACISM WITHOUT RACES

Politics and Policy in a "Color-Blind" State

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Since the end of the Second World War, millions of immigrants have arrived on French shores.¹ Although such an influx of foreigners has not been unusual in French history,² the origin of the postwar migrants was of a different character than that of previous eras. Prior to World War II, the vast majority of immigrants to France came from within Europe. Since 1945, however, an important percentage of migrants have come from non-European sources. Whether from former colonies in North Africa, Southeast Asia, or sub-Saharan Africa, from overseas departments and territories, or from countries such as Turkey or Sri Lanka, recent immigration has created a new ethnic and cultural pluralism in France. At the end of the 1990s, the visibly nonwhite population of France totals approximately five percent of all French residents.³ With millions of ethnic-minority citizens and denizens, the new France wears a substantially different face from that of the prewar era.

Although some might claim that the color of the new immigrants is of little import, the presence of ethnic minorities has contributed one facet to the recent soul-searching about French national identity.⁴ Questions have been raised about the ability and willingness of African and Asian immigrants to integrate successfully into French society. Concerns about headscarves and female circumcision captured both headlines and the public imagination as the far-right and anti-immigrant National Front (FN) gathered electoral strength. Worries about North African immigrants, their French-born children, and Islamic fundamentalism seem inevitable when bombs explode in Paris trains or when cars are set ablaze in regional cities.

A large literature has sprung up in the past decade that attempts to come to terms with various aspects of the "ethnic dilemmas"⁵ posed by postwar immigration. Several prominent scholars have conducted in-depth studies of the history of immigration in France, often stressing the continuities and

recurring tensions in this policy area.⁶ Others have explored the relationship between immigration, race, citizenship, and nation from various theoretical perspectives.⁷ There have also been studies of immigrant integration,⁸ the Far Right,⁹ urban politics and ghettos,¹⁰ immigrant social movements,¹¹ Islam in France,¹² and racism and antiracism.¹³

Without doubt, this research has contributed greatly to our understanding of what may be called the politics of identity in France. Yet, when it comes to the question of racism, it is apparent that virtually all of these studies share a common set of assumptions. Most take for granted that racism and immigration are intimately intertwined, or that immigration policy is the principle form of racism in France.¹⁴ Because immigrants and foreigners are deemed the targets of racism, few scholars take seriously the analytical category of "race." Even using the word "race" in France often makes people shudder; this effect has carried over into the world of scientific enquiry and has eliminated most efforts to use the term (or even the term "ethnicity") as a variable in studying racism. Moreover, this "race-neutral" or "color-blind" approach to the world is frequently presented as deeply embedded in French political culture since at least the Revolution, except of course during the catastrophic Vichy era.¹⁵

Although it would seem as if every conceivable topic relating to immigration politics has been explored in depth, this very set of assumptions has generated several blind spots. Because of the presumption that immigrants and foreigners are the targets of racism, little effort has been made to explore the French state's color-blind approach. Is the state truly race and color blind? In which policy areas? What framework does France use for analyzing ethnic dilemmas, if not race? Moreover, since color blindness is often seen to date back to the Revolution, there have been few attempts to analyze the historical use of race in France over the past two hundred years. Most studies give only a brief synopsis of France's history with minorities, stressing the influence of assimilationism, while avoiding altogether the question of race.¹⁶ Finally, the prevailing assumption that the French state is race-neutral means that the relationship between principles and domestic antiracism institutions has not been examined in depth. In other words, how have color-blind principles affected the French state's approach to fighting racism? Surprisingly, there have been no independent scholarly studies of the development of the two central French laws against racism, the foundational law of 1972 and the Gayssot law of 1990.¹⁷

This article therefore seeks to problematize the core assumptions that animate the study of immigration and racism in France and to fill some of the resultant lacunae by closely examining the development of the antiracism laws of 1972 and 1990. I begin by sketching the dimensions of the color-blind or race-neutral model as it currently operates in France. It is necessary here to stress not only its significant differences from the race- and ethnicity-conscious models that predominate in the United States and that operate to a lesser extent in Britain and the Netherlands, but also to note the limited use

the French state does make of the term race and of the category of ethnicity. This descriptive process helps raise the question of the origins and durability of the color-blind model. The second section follows by examining the relationship between race and the French state and society since the eighteenth century. This overview cannot pretend to be exhaustive; nevertheless, the evidence clearly shows that France has not always been race-neutral. Race has been used at various times in France in a variety of ways—both malicious and benign. That the present French state is color-blind was therefore not predetermined by the weight of history.

If French history offered a number of “repertoires of race” at the onset of postwar ethnic-minority immigration, what factors account for the predominance of color-blind principles in France’s postwar antiracist institutions and for the overwhelming acceptance of the color-blind model at the end of the 1990s? Section three argues that the Vichy experience had a tremendous impact on the development of the foundational antiracism law of 1972, while section four emphasizes the influence of the National Front’s rise in electoral power on the tenor of antiracism in the mid-1980s and on the Gayssot law of 1990. Although many factors account for the precise nature of these two laws, I focus on the role of Vichy and the rise of the Far Right as events that provoked actors to seek out color-blind, race-neutral principles and that encouraged them to emphasize the long-standing relevance of these ideas for French public life.

This article examines the laws of 1972 and 1990 in part because they have been understudied. It is indeed curious in an era of high public anxiety about racism that the history, development, and character of the state’s principal tools for fighting racism are little understood. But, these laws deserve attention for an additional reason: they serve as excellent sites for examining the effects of race-neutral thinking on public policy. By tracing their history, it is possible to see precisely how race-neutral thinking shaped political outcomes. In addition, these laws represent institutional sites that incorporate color blindness in French state policies and that reinforce these principles in public life. If, as scholars have argued, policies create politics,¹⁸ and policies that recognize race create race politics,¹⁹ then the French state’s color-blind policies may demonstrate a way to fight racism without reifying the concept of race. In short, they may exemplify an antiracism without races.

The desire to avoid treating race as a “real” sociological variable has certainly influenced the state’s antiracism institutions. But how have these institutions in turn affected the ability of the French state to fight racism? It seems clear that there are important advantages to France’s color-blind model. Nevertheless, there are also limitations. If liberals in democracies such as the United States, Britain, and the Netherlands have embraced the recognition of races, they have done so because this can be a powerful tool in the struggle against racism. In earlier decades, there was strong opposition in each of these countries to using race in public policy; but at the close of the century, tracking, counting, and directing policies at ethnic and racial groups has become

commonplace. In an effort to spark a debate about the different approaches, I therefore conclude by assessing some of the tradeoffs inherent in the color-blind model of antiracism.

The “Color-Blind” State

The French state steadfastly refuses to employ the term “race” when addressing societal problems associated with ethnic pluralism.²⁰ The official model is race-neutral in two respects. First, it is all but taboo to target policies or to undertake research based on markers of race or ethnicity. There is no policy in France that is aimed at groups based on their racial composition. Moreover, issues such as race-based group differentials that inspire American elites to compose a steady stream of memos, articles, and policies, fail to attract the attention of most French policymakers and intellectuals. Not only is there an absence of race-directed policies in France, there is also a dearth of data about races and ethnic groups. Whereas the United States, Britain, and the Netherlands go so far as to collect census data on minority groups, a 1978 French law (78-17) rendered it illegal except under restricted circumstances to gather such statistics.²¹

So deeply entrenched is the resistance to collecting race or ethnic statistics that the author of a recent study of immigrant integration—pathbreaking in its use of ethnic data—noted that her project generated hostility during its preparation and that its completion was in doubt because its methods contradicted the dominant ideology in spite of receiving the approval of the appropriate national commission.²² Discussing her struggles to use ethnicity as a variable in her study, Michèle Tribalat concluded: “We hope to have thus contributed to lifting, ever so slightly, the French taboo against the use of origins in social science.”²³ Even though Tribalat’s work shows that the taboo is not complete, neither did her study mark its demise. 1998 saw the publication of a strong critique of the “scientific” use of ethnic statistics as serving the Far Right.²⁴ A heated public debate followed over the appropriateness and methods for classifying and categorizing individuals by racial or ethnic group attributes.²⁵

Of course, that the French state avoids racial categorization does not mean that it ignores racism. Since the 1970s, France has passed several rounds of antiracism measures, including most notably the foundational law of 1972 (72-546) banning discrimination and racist acts in private and public life, and punishing perpetrators in criminal courts with stiff fines and jail sentences. The 1990 Gayssot law (90-615) strengthened the penalties against racists and added to the list of crimes classified as racist. The central aim of French law, however, has never been to foster numerical racial equality or to compensate a class of victims defined by race. Rather, French law is designed to punish racists committing bigoted acts motivated by racist intent.

The French model is also race-neutral in a second respect. Whereas the United States tends to view and address issues commonly associated with eth-

nic pluralism through the prism of race, France frequently employs an alternative lens. The problem of immigrant integration in France dictates that more attention be paid to social divides associated with culture, class, geography, and citizenship status rather than race. Naturally, tensions between immigrants and native French often manifest themselves in terms of skin color.²⁶ Arabs, Muslims, *beurs*, and Romanians elicit the lowest levels of sympathy in French surveys on racism.²⁷ Although the motive for disliking these groups may be (real or perceived) differences in culture, individuals in these categories are also targeted for discrimination, harassment, or violence simply based on their appearance. In other words, the state may know no races, but the public can and does identify people by their group-specific attributes.

Formal policies, however, count only foreign residents—subdivided by country of origin—rather than racial or ethnic minorities (such as Afro-Americans or Latinos) when calculating social mobility and acculturation.²⁸ Since immigrants rather than races or ethnic groups are the salient out-group, the French state emphasizes the acquisition of French citizenship as the crucial step to attaining equality within the nation.²⁹ Once a citizen, all categorization by the previous nationality ceases; citizens are regarded as equal, irrespective of origin, race, ethnicity, or religion. French institutions therefore typically focus on immigrant problems of poor housing, low skills, and educational difficulties as problems potentially faced by all residents. As one Cabinet Minister declared at the end of the 1980s, “integration policies for immigrants and their children (*populations issues de l’immigration*) have to be seen as part of a global policy undertaken by the government with respect to disadvantaged groups.”³⁰

In spite of the powerful rhetoric, French authorities have occasionally targeted policies at groups of French citizens or residents defined by ethnic characteristics. The goal of such policies, however, is never to reify or to entrench ethnic identities or to promote ethnic politics. Rather, it is to integrate immigrants into French society.³¹ The Social Action Fund (FAS),³² for example, allocates monies to intercultural studies and to programs focused on groups such as North Africans, West Africans, and Southeast Asians. The FAS may even supply funding to a group of Algerians for an ethnic festival. Yet, state officials would argue that the money is allocated to a local association for its event, not to a minority group seeking to promote its community’s identity.³³ In practice, the funding may also help promote an ethnic identity and (perhaps more importantly) it may serve to placate and to co-opt a potentially active ethnic organization. Nevertheless, as Yasemin Soysal argues, even “these ‘multiculturalist’ tendencies in policy remain within the bounds of ‘republican citizenship,’ deemphasizing collective incorporation and reifying individual membership.”³⁴

When France does flirt with redistributive measures based on ethnicity, it does so in ways diametrically opposed to the logic of public policies in the United States. France maintains informal (but widely recognized) quotas in public housing. These quotas, however, are not set-asides for disadvantaged ethnic groups. Rather they limit immigrants’ access to buildings and encour-

age native French to occupy publicly financed housing.³⁵ Instead of targeting benefits at ethnic groups, French policies are intended to prevent the dangers of ghettoization.³⁶ As Patrick Weil explains, “between quotas and ghettos, the public powers very clearly chose quotas.”³⁷

Race from the Ancien Régime to 1945

At the turning of the millennium, France maintains a strong allergy to accepting race as a meaningful social category. Mainstream politicians, intellectuals, media elites, and most citizens shun the term. Immigrant integration and anti-racism have become the two dominant frames for understanding the ethnic dilemmas that other countries interpret in terms of “race.” Leading scholars, policymakers, and activists often argue that France simply cannot think in terms of racial groups because of its Revolutionary and Republican principles. Authors highlight the continuity between the egalitarianism of previous centuries and today’s politics, often summarizing French history in terms of a tradition of individual assimilation. They regard the Revolution as instituting a logic of equality before the law with no intermediate corporate bodies muddying the connection between individual and state. This logic is seen to apply especially to groups based on ethnic, racial, or religious markers, following the intellectual tone set during the Revolution by the Comte de Clermont Tonnerre, who declared: “One must refuse everything to the Jews as a nation and grant everything to Jews as individuals.”³⁸

There is a tendency, however, to oversimplify and to overstate the legacy of the Revolution and the complementary measures undertaken by subsequent Republican governments. It sometimes seems as if the price to pay for a nearly unanimous disavowal of race is a case of selective memory, “trumpeting” as Adrian Favell has put it, “the grand moments of modern French self-definition in 1789 (the universal declaration of the rights of man), 180[4] (the Code Civil), 1870 (the Franco-Prussian war), 1905 (the separation of church and state ...); and forgetting the rest.”³⁹ Moreover, the principles embodied by this selective memory are implied to have been embraced virtually without interruption since the fall of the Bastille.⁴⁰

In fact, France’s historical *pas de deux* with race has yet to be fully explored. Even so, a cursory overview of the pre-1945 centuries shows a complex relationship between the two. It is undoubtedly true that individual egalitarianism “*sans distinction de race*” has long been an important strand of French public thought. One may even argue that it pre-dates the Revolution. For example, an *ancien régime* “freedom principle” dictated that (with limits and exceptions) slaves could not be held on metropolitan French soil.⁴¹ Moreover, as Patrick Weil and John Crowley point out, the French crown expanded prior to the Revolution by integrating new territories and peoples through relatively easy access to nationality.⁴²

French history has not been uniquely color-blind or assimilationist, however. Analysts, in an effort to explain current color-blind policies by reference to a strong historical tradition, frequently overlook or soft-pedal race-conscious elements of French history. It is therefore worth pausing to examine the more race-conscious episodes in that history—not to suggest that they predominate, but merely to demonstrate that they provide alternative historical raw material for fashioning present-day policies. Only by highlighting the complexity of the French experience with race—and therefore demonstrating that history did not dictate modern policies—can we raise the question of what factors influenced recent political choices.

Often overlooked in discussions of race and racism in France is the nation's long experience with its colonies. Although there was no mass slavery in metropolitan France, the same was not true in the French Caribbean.⁴³ Even the initial liberation of the slaves in 1794 did not immediately follow the Declaration of the Rights of Man and the Citizen in 1789. As Laurent Dubois demonstrates, it resulted in part from the Revolutionary principles of equality, but also in large part from the forceful actions by the slaves themselves and from the Republic's strategic needs to use (freed) slaves to fight its enemies in the Western hemisphere.⁴⁴ Moreover, under Napoleon, slavery was reinstated in the Caribbean, lasting almost another half-century until it was abolished once and for all by the Second Republic in 1848.

Colonialism in Africa varied from the Caribbean version as it also varied within the continent itself. It is clear that neither the assimilationist *mission civilatrice* doctrine nor the consideration of Algeria as an integral part of metropolitan France dictated equality between white French colonists and native Africans. As Alice Conklin clarifies in her study of West Africa, "to the extent that racism is defined as the perception that certain groups ... were fundamentally different from and inferior to white Europeans, then French officialdom was guilty of thinking in racialized categories and implementing oppressive measures throughout the life of the Third Republic."⁴⁵ In Algeria, Muslims seldom had precisely the same rights and duties as European citizens, and even the Jews—notwithstanding the rhetoric of the Comte de Clermont Tonnère—were not accorded full citizenship until 1870.⁴⁶

Nor was racial, religious, and ethnic consciousness limited to the colonies. Examples of racial theorizing and of racism are well known in metropolitan France from the eighteenth through the early twentieth centuries in the writings of intellectuals and popular authors such as Georges-Louis Leclerc de Buffon, Joseph-Arthur de Gobineau, Hippolyte Taine, Gustave Le Bon, and Ernest Renan.⁴⁷ Race and ethnic thinking in the specific form of anti-Semitism also cropped up most visibly during the Dreyfus Affair and became institutionalized in publications and social movements such as the Action Française.⁴⁸

Some modern authors have claimed that identifying an Other necessarily entails the establishment of a cognitive hierarchy of groups.⁴⁹ The examples given thus far would seem to support this argument, since all evoke clear

judgments about the superiority of white Frenchmen to other "less fortunate" or "less worthy" races, ethnic, or religious groups. Yet, even within French history, constructing racial and ethnic categories was not always a strategy for aiding and abetting racist policies or worldviews. Group recognition has also been employed in the service of scientific enquiry and as part of what many would argue is an egalitarian project.

Although he clearly favored environmental over hereditary explanations, Emile Durkheim devoted a chapter of *Suicide* to the potential explanatory variable of race. For the purposes of his study (and with caveats about the term's usefulness) Durkheim identified racial differences within the European continent, stating: "let us agree that there are certain great types in Europe the most general characteristics of which can be roughly distinguished and among whom the peoples are distributed, and agree to give them the name of races."⁵⁰ Durkheim never asserted his belief in the existence of races; nor did he concur with the conclusions of his professional rival Enrico Morselli that race determines suicide rates. Nevertheless, his work demonstrated that, in pursuit of academic enlightenment, the categorization of peoples could be used in nonracist ways.

Beyond social scientific enquiry, there are examples of the positive valuation of racial or ethnic groups and their cultures within the broader bounds of the French nation. Born in Paris in the 1930s, the negritude movement rallied Africans such as Léopold Sédar Senghor, the future president of Senegal, around the accomplishments of black culture.⁵¹ Influenced by the Harlem Renaissance in the 1920s and culminating in the campaigns for colonial independence in the 1950s and 1960s, the negritude movement helped crystallize a consciousness among members of a racial group. In so doing, negritude writers and thinkers within France successfully claimed a group-based identity for progressive purposes.

Not only minorities, but also whites in France have at times sung the praises of ethnic cultural differences. Herman Lebovics illustrates how the state's cultural policy in the early twentieth century was intended to produce a certain image of France for its citizens. This image, principally inspired by the intellectual convictions of the political Right, embraced the notion of a loyalty to two *pays*, one regional or colonial, the other national.⁵² The purpose of the project was to promote unity, but it did so by affirming the value of the sub-cultures that comprised the nation. Like a mosaic, France was seen as composed of many parts, each different in local color, but each contributing to the beauty and the harmony of the country as a whole. Students of modern politics will undoubtedly hear the echo of these ideas in present-day multicultural rhetoric.

Eventually, of course, the Right incorporated similar ideas of ethnic identification into the Vichy regime, with a much more sinister effect. The values of ethnic pride were subsequently viewed as contributing to the Holocaust, thereby discrediting race-conscious thinking altogether among the mainstream French after the war. Memories of arbitrary arrests and deportations of

Jews thoroughly delegitimized policies that singled out ethnic groups and hence triggered the postwar revival of "traditional" color-blind principles. However long it took the French to come to terms with the full scope of the Vichy past,⁵³ the lesson learned about race from the historical events of 1940-44 was a powerful one, inspiring many actors to reemphasize the importance of individual equality before the law in a race-neutral state.

Of course, not everybody learned these lessons; nor did (or will) these lessons necessarily last. Weil documents the attempts of immigration experts immediately after the war to employ ethnic screening categories on potential arrivals.⁵⁴ The policy proposals were overturned by the Conseil d'Etat; yet such bald actions remain striking in the immediate aftermath of the Holocaust. Nor, of course, did racism or popular use of racial and ethnic categories evaporate after the Vichy experience.⁵⁵ Nevertheless, it is certain that the number of references to race and to racial or ethnic groups within the French state was highly circumscribed in the postwar era.⁵⁶ Race thinking was never as powerful an intellectual or political force in France as in the United States or in Germany. The experience of 1940-44, however, triggered a reaffirmation of race-neutral French values that have been attributed to the Revolutionary and Republican eras. Reforged in the heat of Vichy, these values were to have a strong impact on the direction of postwar antiracism in France.

Antiracism from 1945 to the Early 1980s

When France emerged from the Second World War, there were many historical repertoires of race from which officials, activists, and the public could draw. The significance of the Vichy lesson is not therefore in its uniform application throughout the nation. It is not the case that every French citizen had become a passionate antiracist immediately following the war. In fact, state officials spent most of their energy between the late 1940s and the early 1970s denying the very existence of racism in the Hexagon.⁵⁷ The Vichy experience, however, had a tremendous impact on a relatively small group of activists who proved to be seminal to the eventual shape of France's 1972 antiracism law. The 1972 law established the bulk of France's antiracist institutions. In sharp contrast to British legislation of the same era, the French law generated relatively little political controversy at the time of passage and was adopted by a unanimous vote in both the National Assembly and the Senate. Passing the law was not, however, an easy task for its supporters. Proposals for comprehensive antiracist legislation were first conceived in the 1950s by the human rights interest group MRAP.⁵⁸ Although the MRAP had to wait over a decade for the Government to enact its initiatives, once on the agenda, the MRAP's formula for legislation remained largely intact and strikingly different from that of its cross-Channel neighbor. In its final form, the French law of 1972 contained no race-conscious elements, established criminal penalties for dis-

crimination, and promoted the role of antiracist associations—such as the MRAP and the LICRA⁵⁹ among others—in leading the fight against racism.

That a relatively young organization such as the MRAP could have such an important impact on national legislation is surprising. What is less surprising is the direction in which they pushed the law. Although officially founded in 1949, the MRAP had its roots in resistance to the Vichy regime and was seen by many as sympathetic to the French Communist Party.⁶⁰ As one prominent member notes, the founders of the MRAP (in contrast to the members of the LICRA⁶¹), "belonged to the more popular milieus."⁶² In addition, many had either been deported or had family members deported during the war.⁶³ In spite of the left-leanings and recent immigrant status of many activists, the MRAP also contained high-profile figures. The committee that developed the antidiscrimination legislative proposals, for example, consisted of several prominent members of the French legal establishment.⁶⁴

Rather than responding to concerns about discrimination against post-colonial immigrant ethnic minorities, the MRAP leadership was much more sensitive in the 1940s and early 1950s to what it perceived as a post-Vichy rebirth of anti-Semitic sentiments. Albert Lévy, longtime General Secretary of the MRAP, has described the era until the middle of the 1950s as the period of the "aftermath of the war, where the dominant questions were neo-Nazism, the revival of anti-Semitism and the Cold War." As an organization, the MRAP crystallized in the wake of local mobilization against "The New Masters," a film whose subject the MRAP summarized as "the Jews are once again masters of France." The MRAP also took notice of several prominent collaborationists, who, released from death sentences, took over editors' positions at racist newspapers.⁶⁵ Within this broader context, the organization's legal committee felt that existing French law was incapable of effectively sanctioning racism.⁶⁶ Prior to 1972, the 1939 Marchandau decree-law was the principal legal instrument used to call perpetrators of racist acts into the courts. The Marchandau decree, however, was both narrow in scope and rarely invoked. Although this law carried stiff penalties, MRAP lawyers catalogued only two successful prosecutions between 1945 and 1949.⁶⁷

Thus, with unpunished anti-Semitism in the media and perceived lacunae in sanctioning mechanisms, the MRAP drafted proposals for a new law in the early 1950s.⁶⁸ By late 1958 the MRAP had codified its ideas into three critical elements.⁶⁹ First, it proposed extending the reach of the 1939 Marchandau decree to encompass more forms of hate speech than those already sanctioned. As with the Marchandau decree, this necessitated a revision to the 1881 press law on freedom of expression. Second, the MRAP lobbied for protection against discrimination in employment and in furnishing of goods and services.⁷⁰ This proposition was motivated primarily by concerns about racism faced by immigrant minorities. Issues of decolonization and nonwhite, non-Christian immigration came to occupy the MRAP leadership to an increasing extent in the 1960s and 1970s;⁷¹ but at the moment when the MRAP submit-

ted its legal proposals in 1959, these concerns were clearly less important to the organization than was anti-Semitic hate speech. Finally, the MRAP advocated a procedural change to the law that would permit antiracist associations groups to participate as "civil parties" (*parties civiles*) in court cases involving racist crimes. Under French penal law—given certain restricted conditions—public interest groups can take part in or can even take a lead in instigating and arguing cases that relate to the generalized interests of their group. Becoming a civil party to a criminal case can therefore place the group in a pivotal and powerful position within French legal institutions.

Although it took thirteen years before the government enacted antiracism legislation, when it did so in 1972 these fundamentals of the MRAP proposals were intact.⁷² The French laws against racism made no provision for counting, protecting, or aiding groups defined by race or ethnicity, in spite of the contemporaneous development of affirmative action in the United States and the budding use of race-conscious policies in countries such as Britain and the Netherlands. Such was the aversion to recognizing race in France that the institutionally powerful *rapporteur* of the law (Alain Terrenoire) submitted an initial draft of the legislation that omitted the word race.⁷³ The report of the law committee (*commission des lois*) proposed to punish racism based on religious, ethnic, or national origins, effectively rendering discrimination based on race legal. This was neither a mistake, nor an oversight. Terrenoire explained the motive for the decision:

Speaking of races is always a delicate matter, for we run the risk of giving credibility to the idea that there are different distinctions [*qualitatives*] within the human species. That is why we must separate out the justified and necessary struggle against racism and its misdeeds from the factual recognition of differences between people according to their origins, their religions, and the color of their skin.⁷⁴

On the morning of the National Assembly debate, however, the law committee met to examine the amendments suggested by the Government, and it accepted the Government's advice to weave race into the law as an explicitly illegal ground for discrimination,⁷⁵ "in spite of the disadvantages" as Terrenoire later stated.⁷⁶ If it had not been for this last-minute decision, there would have been no mention of the word race in the French law against racism.⁷⁷

The tendency to take race out of antiracism also appears clearly in the 1978 law (78-17) on information storage and freedom (*informatique et liberté*). Although on the surface this law appeared to have nothing to do with antiracism, tucked away in the lengthy legislation was a clause on computerized storage of personal information that all-but-banned race-based statistics. The 1978 provisions outlawed computerized storage of data on racial origins without the express consent of the individual or (in cases of public interest) of the state.⁷⁸ In practice, this has meant that no systematic data have been collected on race. There are no census estimates of French citizen populations as defined by race or ethnicity and very little data to estimate the socio-economic

status of minorities relative to the majority. In the late 1970s, when the eventual law was first discussed, antiracist groups such as the MRAP supported the drive to outlaw collection of ethnic data.⁷⁹ At a time when British and American antiracists were calling for more ethnic data, the French Parliament debated not whether to make race statistics legal or illegal, but whether to permit exceptions to the ban or to outlaw collection of race data in every circumstance.⁸⁰ At the end of the day the exceptions remained; yet no advocates for the positive value of counting minorities could be found. When asked about this aspect of the French law with regard to immigrant groups in the 1990s, one influential French administrator reflected:

What would we have to have? Legislation which says that one is recognized as being an immigrant, in order to have special rights, if one has parents of foreign origin or has at least two grand-parents of foreign origin. That would be an acceptable definition. Do you know what that is? That is the ordinance of 18 November 1940 which defines the Jew according to the Vichy regime, which says that one is a Jew if one has one Jewish parent or two Jewish grand-parents. It is impossible to imagine a French law which uses this formulation. It would have a frightening effect. It is absolute evil.⁸¹

Antiracism from the Early 1980s to the Present

By the early 1980s the terrain of antiracism was shifting significantly. The events of May 1968 had sparked a budding activism among immigrant communities and the oil crisis of 1973 led directly to the elimination of the open and flexible immigration policies that had prevailed since the Second World War in the interest of economic productivity.⁸² The opening years of the new Socialist administration of 1981 therefore coincided with—and helped contribute to—rising immigrant consciousness and experimentation in government policies toward immigrants. Whereas the Giscard d'Estaing administration had sponsored a variety of illiberal policy initiatives, Mitterrand and the left embarked upon a more generous path, regularizing 130,000 illegal immigrants, restricting powers of expulsion, and lifting a ban on foreigners forming officially recognized associations.⁸³

Aside from the rising importance of immigration on the national agenda, the early 1980s saw a burgeoning of identitarian and multiculturalist tendencies within the Hexagon, such as the increasing use of "intercultural" rhetoric in schools.⁸⁴ The Government also began to lend a hand to regions that were claiming the right to promote languages and cultures that the assimilationist Third Republic had done its utmost to stamp out.⁸⁵ Within this context, immigrant and antiracist groups began to claim the same "right to difference" that was advocated for regions. Most notably in this era, young French-born citizens with North African ancestry (known as *beurs*) began to organize around their ethnic identity, sponsoring a series of high profile antiracist marches in

1983, 1984 and 1985.⁸⁶ By the early to mid-1980s, therefore, the direction of antiracism was in question. No longer as marked by the legacy of Vichy and more focused on issues of immigration, the pendulum of antiracism appeared poised to swing toward an "American" model of ethnic identification and race- or ethnicity-conscious politics⁸⁷ as national-level *beur* organizations sought to mobilize *beur* votes⁸⁸ and the FAS decision-making machinery was reorganized to include representatives of different ethnic communities.⁸⁹

Yet this culture shift was not to be. The very rise of immigrant politics and the increasing attention to issues of racism were themselves tightly linked to the growing appeal of the National Front. Achieving its first electoral successes in 1983, the FN quickly became a mainstay of French public and political discourse. Its anti-immigrant racism helped spark the emergence of SOS-Racisme in 1984. That SOS-Racisme quickly surpassed the *beur* movement in the joust for public attention can in part be attributed to tensions within the *beur* movement and to SOS-Racisme's innovative publicity tactics.⁹⁰ But it is likely that its success also depended on its appeal to a less ethnic-specific audience. Although SOS-Racisme preached the right to difference (in keeping with the spirit of the mid-1980s), it also enlisted the support of a wide range of minorities as well as members of the general public and especially the political community. In doing so, it showed itself to be an antiracist movement operating in a more race-neutral paradigm.

The trend back toward public sphere color blindness picked up pace in the mid- to late 1980s. Proving adept at molding multicultural rhetoric for inflammatory purposes, Le Pen and the FN embraced the principle of a "right to difference," provided that those who were different from "the French" practiced their diversity outside of the nation's borders.⁹¹ Reacting to the Front's electoral successes, intellectuals began to argue that the discourse of difference harmed the antiracist cause.⁹² It was feared that advocating a "right to difference" could lead to a "difference of rights," an untenable position in the Republic bequeathed by the Revolution. By the early 1990s, even the leaders of antiracism movements such as SOS-Racisme were beginning to condemn the "community logic" of multiculturalism, marking a further decline in the rhetorical fortunes of the "right to difference."⁹³ It was within this new context that France enacted its second major law against racism in 1990. The Gaysot law, as it is commonly known, had three central elements. First and most symbolically, it punished those who deny the historical existence of the Holocaust. Second, it created a new tool for punishing racists. Subject to the discretion of the judges, individuals found guilty of racist crimes can be stripped of certain civil rights—most provocatively the right to run for public office. Third, and least controversially, the law of 1990 created institutionalized publicity for race policies by mandating an annual report on the struggle against racism and xenophobia. The first two elements of the law were placed on the agenda in direct response to the actions of the FN. Moreover, in contrast to the unanimous passage of the law of 1972, the 1990 legislation gener-

ated significant partisan heat, with the presence of the FN shattering the cross-party consensus on race policies that had prevailed during the 1972 vote.

The seeds of the 1990 law must be traced back to 1987, when the Communist Party first submitted the parliamentary proposals that were to form the basis for the eventual law. Led by Guy Ducloné, the Party argued that a new law was needed given what it perceived as a rise in racism in France. Along with specific examples of hate speech and physical attacks,⁹⁴ it noted the generalized anti-immigrant tenor of the mid-1980s, a fact which it undoubtedly felt was compounded by the presence of thirty-five National Front members within the 1986-88 National Assembly. Communist Party advocates suggested two types of remedies to the problems at hand.⁹⁵ First, their bill argued for more information and publicity relating to issues of racism and antiracism. Second, the bill proposed legal reforms to allow a greater number of private associations to initiate court action against perpetrators of racist acts and to create stiffer penalties for crimes inspired by racist motives. One of the penalties envisioned included the right to refuse certain civil rights to perpetrators of racist crimes. The PCF's suggested denial of civil rights to offenders was not an unprecedented step, but merely a stronger version of proposals made that same year by an RPR Deputy charged with preparing a report on racism;⁹⁶ nevertheless it was to be the source of heated debate during the passage of the 1990 law.

Contrary to popular belief, the Communist bills were not the source of another highly contested point of the 1990 law. The proposed revisionism ban emanated not from "Stalinist" Communists (as implied by the Right in parliamentary debates),⁹⁷ but rather from the governing Socialists themselves. The parliamentary Socialists' 1989 antiracist proposals were quietly appended to those of the Communists when the *rapporteur* drafted the official National Assembly bill in 1990.⁹⁸ The Socialist Party (PS) argued that outlawing revisionist history was essential given the burgeoning of such theses, citing in particular National Front leader Jean-Marie Le Pen's 1987 statement that the Holocaust was a mere "detail" of history.⁹⁹ According to the Socialists, the Right's 1987 law banning the apology of crimes against humanity was insufficient to punish historical revisionism; moreover, they pointed out, France would not be alone in its actions as a ban on the denial of the Holocaust had been in place in the Federal Republic of Germany since 1985.¹⁰⁰

The official bill of 1990—which emerged from committee deliberations and was debated in the two houses of Parliament—thus contained a package of ideas originating in the two left parties. But many of these proposals had at one time or another found support among leaders on the Right,¹⁰¹ and all were presumed to be palatable across the political spectrum.¹⁰² When they were discussed in committee and especially in the National Assembly, however, the three core elements of the proposals—publicity, civil rights, and revisionism—were intensely contested, substantially amended, or simply excised. Although it is impossible to analyze each of these issues in depth here, it is worth exam-

ining some details of the debates in order to highlight the extent to which the presence of the National Front structured the process and kept politicians' attention on issues of hate speech and away from concerns about structural inequalities between members of different racial or ethnic groups.

While the publicity provisions were weakened outside of the public eye, the proposals to deprive convicted racists of civil rights stirred up passionate debate. The parliamentary bill proposed to enable judges—at their discretion—to penalize those found guilty of racist crimes¹⁰³ with deprivation of civil rights,¹⁰⁴ including the right to vote and the right to be elected to public office. This provision posed a political problem for two reasons. First, it was argued to be an inordinate burden on the media and an insufferable attack on freedom of the press. Under French law, newspaper editors are automatically banned from practicing their profession if they have been deprived of their civil rights through a conviction. Because editors are responsible for their newspaper's articles, they could—in theory—lose their professional rights if their journalists quoted racist statements made by third parties. Although certainly not a probable outcome, this possibility prompted an outcry from media organizations.¹⁰⁵ The Right carried this refrain into the parliamentary debate, hammering the Government with claims that it was trying to “muzzle the press.”¹⁰⁶ The Government responded by passing an amendment eliminating the application of the civil rights penalty to editors (therefore eliminating the risk that they would be banned from their jobs) and by accepting an amendment of the Right that protected journalists from the same fate.¹⁰⁷

Second, the Right challenged the Left by arguing in the National Assembly that the plan to deprive convicted racists of their civil rights was a thinly veiled *ad hominem* attack on Jean-Marie Le Pen.¹⁰⁸ Le Pen himself claimed that the law as a whole targeted the FN.¹⁰⁹ The Socialists responded—without specifically mentioning the National Front or Le Pen—simply by stating that those who made racist statements were not worthy of being elected to office.¹¹⁰ Nevertheless, it is clear that the law was crafted in the context of the rise of the National Front; to plead ignorance or disinterestedness in its effects on the FN rang disingenuous to many on the Right. After considering the criticisms, the Government excised the ban on the right to vote. Still, by permitting courts to deny convicted racists the right to be elected and to hold office, the Left clearly sought to box in Le Pen and his associates. Future RPR Minister of Justice Jacques Toubon interjected during the debate: “I understand that the Government does not want to go as far as civic death, that it prefers political death. I understand that is in fact the entire goal of the maneuver.”¹¹¹

If the Gayssot law is most frequently associated with one element, it is undoubtedly the provision banning revisionism.¹¹² The revisionism article of the 1990 law rendered it illegal to *contest* crimes against humanity, going beyond the 1987 penalties against the *apology* of such crimes.¹¹³ This step raised the hackles of some historians, fearful of a measure which smacked of establishing an “official history.”¹¹⁴ In previous years, the Right was divided

over the merits of such a legal provision. The progressive Hannoun report, for example, had recommended against banning revisionism.¹¹⁵ Yet, journalists had attributed support for outlawing revisionism at various times to heavyweights Philippe Séguin and Jacques Chirac,¹¹⁶ and Charles Pasqua—the hard-nosed and earthy former Interior Minister—had warmed to the proposal as recently as the Prime Minister's April 1990 roundtable on racism.¹¹⁷ The Right was clearly torn over this issue. When it came to the National Assembly debate, the Right's point man, future Minister of Justice Jacques Toubon, argued that a revisionism provision would undermine freedom of academic research and might even give credibility to revisionist theses simply by outlawing them. Nevertheless, the Right did not vote against the government's formulation of the revisionism article, suggesting limits to its hostility to this provision which Toubon dubbed “one of the principal innovations of this bill.”¹¹⁸

The mainstream Right expended tremendous energy opposing the 1990 Gayssot law. It voted against the bill in spite of a clear commitment among party leaders to the cause of antiracism. The National Assembly debate, rife with acrimony and procedural delays, dragged on until dawn.¹¹⁹ Deputies from the Right drew on anti-Communist rhetoric to condemn a bill which they argued originated in a Stalinist party,¹²⁰ seemingly unaware that the law of 1972—passed by a rightist Government—also had its origins in Communist Party proposals.¹²¹ Once the bill moved to the upper house, the predominantly rightist Senate refused even to consider the project, repeatedly voting measures in committee precluding discussion on the floor. This served to delay passage of the law and sent a clear signal of the upper house's overwhelming disapproval of the legislation.¹²² Why did the Right so vehemently oppose the Gayssot law?

In part, leaders on the Right objected to the specific provisions embodied in the legislation. There were legitimate concerns over freedom of speech with respect to the civil rights sanctions. Nonetheless, the Right's allergy to this bill seems to have been determined largely by its electoral tango with the National Front. During the FN's annual 1 May rally, Le Pen shone the media spotlight at the parliamentary process by decrying its forthcoming debate of a “wicked law” that aimed to “vote the political death of patriots.”¹²³ The following day the mainstream Right mounted its hearty opposition to the bill, ultimately voting with the lone National Front Deputy against the antiracism legislation. If the Right fired volleys at the Communists and at the bill, the Left accused the Right of sympathy with the National Front. Minister of Justice Pierre Arpaillange proclaimed that “it was enough for Mr. Le Pen to say yesterday that it [the law] was bad for you to follow suit.”¹²⁴ Whether or not the Right reacted directly to the statements of the previous day, the FN undoubtedly influenced the mainstream Right's tactics, given that the Right was competing with the Far Right for anti-immigrant votes. Moreover, the entire process was scrutinized by intense media coverage, with Le Pen himself casting a shadow over the debate by his physical presence in the balcony of the National Assem-

bly on the night of 2 May. Even after the initial frenzied moments following Le Pen's intervention, the Right persevered in its opposition over the following months, voting against the final version of the law on 30 June 1990.

France fights racism through its laws, but it does so in a particular fashion. As with the core of the 1972 law, the 1990 Gayssot law attacked a certain kind of racism. It strengthened penalties against hate speech by Far Right organizations. Although the FN provided the immediate incentives for action in the late 1980s and early 1990s, it did not restructure French thinking about racism or races. If anything, it reinforced the notion that identifying individuals by their group attributes and counting or targeting policies at races, ethnic groups, or identity-based communities was playing into the hands of the far right. Leading French antiracists have not always been of one mind in this conclusion. But the brief window of opportunity for a multicultural approach to problems of ethnic diversity all but closed with the rise of the National Front in the mid-1980s. Since that time, most antiracist leaders have rallied around the color-blind republican flag as the most promising approach to the challenges posed by the Far Right.

Fighting Racism the French Way

This article has attempted to illustrate the origins of French ideas about race and to demonstrate the effects of such ideas on antiracist institutions. It has argued that although the French perspective was not predetermined by the Revolution and Republican history, those events provided resources to which actors turned following crises such as Vichy and the rise of the Far Right. Looking beyond the effects of race-neutral thinking on French institutions, it is also valuable to reflect on the effects of French institutions on the country's ability to fight racism effectively. What are the advantages and disadvantages to fighting racism without recognizing races? French policymakers and opinion leaders are not alone in their desire to pursue color blindness. Many people in the United States—especially on the Right—argue that race-consciousness in public policy is morally unjust and politically dangerous. While often criticized by the Left for promoting color blindness as a means to do away with policies that aid disadvantaged minorities, the Right also follows the more “positive” line of logic laid out in French thinking.

Although the advantages are difficult to measure, two common arguments for the color-blind polity are often advanced. First, since the state and its policies set the tone for public understanding of the nation, any state that recognizes race may reinforce internal ethnic divisions among its citizens. When the state refuses to accept race as a meaningful social variable, therefore, it encourages its citizens to think in color-blind terms. Is there evidence of this effect in France? Surveys show that in spite of color-blind antiracism laws, the French are able to identify groups for which there is little sympathy. Never-

theless, it is noteworthy that although over thirty-five percent of those asked in 1996 expressed antipathy towards groups such as the *beurs*, Romanians, and North Africans, only eight percent expressed antipathy towards (black) French West Indians, while twelve percent disliked (white) Central Europeans.¹²⁵ There are ethnic or cultural out-groups in France that are the focus of antagonism; for most people, however, they are not simply defined by skin color.¹²⁶

The second advantage associated with the color-blind state is the mitigation of problems of backlash. In race-conscious societies, policies targeted for the narrow benefit of minority groups or even policies that disproportionately benefit minorities are often the subject of envy and hostility among the majority population. Even isolated examples of policy abuses by minorities can become embedded in the public imagination as symbolic of the actions of “those people,” and of how the state favors protected groups over the majority. Whether the judgments are accurate or erroneous, the result is often bitterness. The color-blind state might not completely prevent problems of backlash, but it may help undermine the charge that the state favors some groups over others.

The color-blind state also appears to have an advantage that is specific to French politics. Antiracists have rallied around this position as the best way to fight the National Front. Policies that de-emphasize race seem to have neutralized much of the mileage the FN has derived from the discourse of the right to difference. If in the United States the Left favors multicultural policies and difference-consciousness, in France, the Left faces a different set of political constraints. In the present French political context, therefore, there are powerful incentives to embrace color-blind politics. Despite this, it must be emphasized that the French state does not completely ignore or try to erase cultural differences. Its integration policies attempt to strike the delicate balance between unity and diversity. The High Council on Integration described the French philosophy thus:

... it is a question of evoking the active participation of different and various elements in the national society, while at the same time accepting the maintenance of cultural, social and moral specificities and taking for granted that the whole is enriched by this variety, this complexity. Without denying differences, knowing how to take them into account without exalting them, a policy of integration accents similarities and convergence, in order—in equality of rights and obligations—to foster solidarity between the different ethnic and cultural components of our society and to give everyone, whatever his origin, the possibility to live in this society in which he has accepted the rules and in which he becomes a constituent element.¹²⁷

Even if the state does not try to stamp out diversity, however, it does not go as far as the United States or even Great Britain or the Netherlands in officially recognizing minorities or targeting policies for their benefit. Examining these other liberal democracies and their motives for adopting race-conscious policies serves to highlight some of the disadvantages to the French approach.

For example, although there was initial resistance to counting and categorizing ethnic minorities in these countries, attitudes shifted as progressives realized that race data could be employed to help underprivileged groups. In France, since the state does not count people by race or ethnicity, it is difficult to gauge the relative well-being of minorities. The French state can and does undertake studies of the position of foreigners (a category for which extensive statistics are kept), and has even conducted limited explorations into the position of immigrant children who are French citizens.¹²⁸ Yet, if it is true—as the state and survey respondents admit—that there is racism in France, it follows that members of groups identified and targeted by racists will have relatively less success in society than they deserve. But it is impossible to judge the precise contours of this problem in a color-blind state such as France. Moreover, because it is impossible to isolate the dimensions of the problem, and because group-targeted policies are judged illegitimate, it is also difficult to craft solutions to the problem and to track their effectiveness.

Responding to the problems of Vichy and the National Front, French experts and policymakers have not only rejected categorization of minorities, they have also focused most of their energy on the fight against hate speech and intentional racism, to the detriment of issues of discrimination in jobs and housing and indirect racism. Elites in France have only very recently begun to examine intensely these latter types of problems. Although discrimination has been outlawed since the law of 1972, the law generates virtually no convictions. From 1990 to 1994, there were a total of forty-four convictions for discrimination, an average of just under nine per year.¹²⁹ Responding to concerns about the level of discrimination and its effect on the French model of integration, the High Council on Integration published a report in 1998 advocating a significant overhaul in French antiracist institutions and drawing inspiration from the British, Dutch, and Belgian exemplars. Although the HCI did not recommend a race-conscious approach and specifically rejected quotas, it called for a new definition of discrimination that includes indirect or unintentional racism, it insisted upon extensive public debate about the problem of discrimination, and it advocated a national quasi-governmental institution that would play a leading role in the fight against racism.¹³⁰ Without advocating race-conscious policies, the HCI has suggested taking limited steps in the direction of France's more race-conscious neighbors.

It is possible for the French state to continue to fight racism while it avoids recognizing races. In many respects, such a color-blind approach is desirable. But the color-blind model also comes with costs. If these costs are seen to impede the effective fight against racism, the French may eventually—if reluctantly—choose to incorporate the word race into their ethnically plural society and their antiracism institutions.

Notes

1. For comments on and assistance with this article as it developed, I would like to thank Herrick Chapman, Alice Conklin, Laurent Dubois, Laura Frader, Jennifer Oster, Jill Parsons, and Patrick Weil.
2. Gérard Noiriel, *Le Creuset français: histoire de l'immigration XIXe-XXe siècle* (Paris: Seuil, 1988).
3. The 1990 census showed that foreign Africans and Asians in France numbered 2,069,890 or 3.7% of the total population of 56,634,299 (see Patrick Weil, *La France et ses étrangers: l'aventure d'une politique de l'immigration de 1938 à nos jours*, 2nd ed. [Paris: Gallimard, 1995], annex VI). Because only non-French are enumerated (and then only by country of origin, not by ethnicity or race), it is impossible to gauge precisely the number of ethnic minorities in France. Nevertheless, its relatively inclusive citizenship and naturalization laws and the presence of citizens from former French colonies combined with the non-French Africans and Asians suggest that the visible minority population may be close to five percent of the total population. On citizenship and naturalization see Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA: Harvard University Press, 1992); on citizens from the former colonies, see Hervé Domenach and Michel Picouet, *La Dimension migratoire des Antilles* (Paris: Economica, 1992).
4. See the range of articles on this topic in *French Politics and Society* 14, 1 and 2, (Winter and Spring 1996).
5. A term I borrow from Nathan Glazer, *Ethnic Dilemmas: 1964-1982* (Cambridge, MA: Harvard University Press, 1983).
6. Noiriel, *Le Creuset français: histoire de l'immigration XIXe-XXe siècle*; Weil, *La France et ses étrangers: l'aventure d'une politique de l'immigration de 1938 à nos jours*; Catherine Wihtol de Wenden, *Les Immigrés et la politique: cent cinquante ans d'évolution* (Paris: Presses de la Fondation Nationale des Sciences Politiques, 1988).
7. Etienne Balibar and Immanuel Wallerstein, *Race, nation, classe: les identités ambiguës* (Paris: Editions La Découverte, 1988); Brubaker, *Citizenship and Nationhood in France and Germany*; Adrian Favell, *Philosophies of Integration: Immigration and the Idea of Citizenship in France and Britain* (London: MacMillan, 1998); Miriam Feldblum, *Reconstructing Citizenship: The Politics of Nationality Reform and Immigration in Contemporary France* (Albany: State University of New York Press, 1999); Alec G. Hargreaves, *Immigration, 'Race' and Ethnicity in Contemporary France* (London: Routledge, 1995); Riva Kastoryano, *La France, l'Allemagne et leurs immigrés: négociant l'identité* (Paris: Armand Colin, 1996); Maxim Silverman, *Deconstructing the Nation: Immigration, Racism and Citizenship in Modern France* (London: Routledge, 1992).
8. Didier Lapeyronnie, *L'Individu et les minorités: la France et la Grande-Bretagne face à leurs immigrés* (Paris: Presses Universitaires de France, 1993); Dominique Schnapper, *La France de l'intégration* (Paris: Gallimard, 1991); Emmanuel Todd, *Le Destin des immigrés: assimilation et ségrégation dans les démocraties occidentales* (Paris: Seuil, 1994); Michèle Tribalat, *Faire France: une grande enquête sur les immigrés et leurs enfants* (Paris: La Découverte, 1995).
9. Hervé Le Bras, *Le Démon des origines: démographie et extrême droite* (Paris: L'Aube, 1998); Nonna Mayer and Pascal Perrineau, eds., *Le Front National à découvert*, 2nd ed. (Paris: Presses de la Fondation Nationale des Sciences Politiques, 1996); Martin Schain, "The Immigration Debate and the National Front," in John Keeler and Martin Schain, eds., *Chirac's Challenge* (New York: St. Martin's Press, 1996).
10. Loïc J.D. Wacquant, "De l'Amérique comme utopie à l'envers," in Pierre Bourdieu, ed., *La Misère du monde* (Paris: Seuil, 1993), pp. 169-79.

11. David Stuart Blatt, "Immigration Politics and Immigrant Collective Action in France, 1968-1993" (Ph.D. dissertation, Cornell University, 1996); Saïd Bouamama, *Dix ans de Marche des Beurs: chronique d'un mouvement avorté* (Paris: Desclée de Brouwer, 1994); Marie Poinsot, "Competition for Political Legitimacy at Local and National Levels among Young North Africans in France," *New Community* 20, 1 (1993): 79-92.
12. Bruno Etienne, ed., *L'Islam en France* (Paris: CNRS, 1991); Gilles Kepel, *Les banlieues de l'Islam* (Paris: Seuil, 1991); Olivier Roy, "Islam in France: Religion, Ethnic Community or Social Ghetto?" in Bernard Lewis and Dominique Schnapper, eds., *Muslims in Europe* (London: Pinter Publishers, 1994), pp. 54-66.
13. Pierre-André Taguieff, ed., *Face au racisme: les moyens d'agir* 2 vols. (Paris: La Découverte, 1991); Pierre-André Taguieff, *La Force du préjugé: essai sur le racisme et ses doubles* (Paris: La Découverte, 1987); Michel Wieviorka, *La France raciste* (Paris: Seuil, 1992).
14. Indicative of this trend is Patrick Weil, "Immigration and the Rise of Racism in France: The Contradictions in Mitterrand's Policies," *French Politics and Society* 9, 3-4 (1991): 82-100 which interprets problems of racism almost exclusively in terms of the politics of immigration.
15. Not all scholarship specifically emphasizes the long-term embeddedness of race-neutrality in French political culture. Most scholarship simply summarizes France's history of immigration and cultural difference by beginning with the French Revolution and emphasizing historical moments of assimilation and color blindness in a way that gives the impression of strong continuity.
16. For scholarly works on France that address race directly, see Etienne Balibar and Immanuel Wallerstein, *Race, nation, classe: les identités ambiguës* (Paris: La Découverte, 1988), and Silverman, *Deconstructing the Nation: Immigration, Racism and Citizenship in Modern France*. Most studies on closely related topics focus either on one element of French history, such as colonialism or scientific racism, or they discuss the history or presence of "racism" but not race, or they tend to focus on racism within the private sphere, but not how the state has used or avoided the subject of race.
17. The only published source—very useful, but hard to find—on the history of the 1972 law was produced by the *Mouvement contre le Racisme et pour l'Amitié entre les Peuples* (MRAP), an interest group that participated in the process. See MRAP, *Chronique du flagrant racisme* (Paris: La Découverte, 1984). Although I am aware of at least one book-length study in preparation on the 1990 law, to my knowledge nothing comprehensive has yet been published.
18. Paul Pierson, "When Effect Becomes Cause: Policy Feedback and Political Change," *World Politics* 45 (July 1993): 595-628.
19. Joane Nagel, "The Political Construction of Ethnicity," in Susan Olzak, ed., *Competitive Ethnic Relations* (Orlando: Academic Press, 1986), pp. 93-111.
20. The state and its employees are not, of course, immune to charges of racism.
21. It is illegal in France to store computerized information on race without the express consent of the individuals concerned or formal approval from a national commission. See below for further discussion of this law.
22. The CNIL, or *Commission Nationale Informatique et Liberté*.
23. Tribalat, *Faire France: une grande enquête sur les immigrés et leurs enfants*, pp. 16-17.
24. Le Bras, *Le Démon des origines: démographie et extrême droite*. In particular, the author took issue with the INED and with their studies that employed the category "French stock" ("*français de souche*"). According to Le Bras, this term "transformed the French population into an ethnic group—if not to say a race—with its implications of sub-races more or less stigmatized for their dangerousness or their imperfect assimilation" (p. 194). Yet Le Bras is not categorically opposed to surveys that

- take account of ethnicity, as long as they do not pigeon-hole individuals into seemingly fixed identities and as long as they do not "dissect foreigners like strange insects ..." (pp. 228-32).
25. See especially the series of articles published in *Le Monde* on 6 November 1998.
26. Silverman, *Deconstructing the Nation: Immigration, Racism and Citizenship in Modern France*, pp. 3-5.
27. Commission Nationale Consultative des Droits de l'Homme, 1996. *La Lutte contre le racisme et la xénophobie: exclusion et droits de l'homme* (Paris: La Documentation Française, 1997), pp. 373-75. *Beurs* are young French of North African origin.
28. See Favell, *Philosophies of Integration: Immigration and the Idea of Citizenship in France and Britain*, pp. 72-73; Hargreaves, *Immigration, 'Race' and Ethnicity in Contemporary France*.
29. Brubaker, *Citizenship and Nationhood in France and Germany*; Favell, *Philosophies of Integration: Immigration and the Idea of Citizenship in France and Britain*; Commission de la Nationalité. *Etre français aujourd'hui et demain* (Paris: La Documentation française, 1988).
30. Cited in Lapeyronnie, *L'Individu et les minorités: la France et la Grande-Bretagne face à leurs immigrés*, p. 161.
31. Fonds d'Action Sociale, *Etre acteur* (Nancy: Fonds d'Action Sociale, 1996).
32. The FAS is the principal instrument of the state for integrating immigrants into the French polity and society.
33. Confidential interview, Paris, 17 March 1997.
34. Yasemin Nuhoglu Soysal, *Limits of Citizenship: Migrants and Postnational Membership in Europe* (Chicago: University of Chicago Press, 1994), p. 61.
35. Hargreaves, *Immigration, 'Race' and Ethnicity in Contemporary France*, pp. 198-99; Lapeyronnie, *L'Individu et les minorités: la France et la Grande-Bretagne face à leurs immigrés*, pp. 244-45; Martin Schain, "Policy-Making and Defining Ethnic Minorities: The Case of Immigration in France," *New Community* 20, 1 (October 1993), pp. 61-63. Schain notes that there have also been limits placed on minorities in areas such as schools, summer camps and winter ski schools.
36. It should be noted that the United States has also periodically pursued such goals; take, for example, the Starrett City housing development in Brooklyn. See Nathan Glazer, *Affirmative Discrimination: Ethnic Inequality and Public Policy*, 2nd ed. (Cambridge, MA: Harvard University Press, 1987), p. xxiv.
37. Weil, *La France et ses étrangers: l'aventure d'une politique de l'immigration de 1938 à nos jours*, 399. Weil argues, however, that allocation of poor housing stock first to immigrants served to create "micro-ghettoes" at the building level.
38. Cited in Brubaker, *Citizenship and Nationhood in France and Germany*, p. 106.
39. Favell, *Philosophies of Integration: Immigration and the Idea of Citizenship in France and Britain*, p. 59.
40. See esp. Brubaker, *Citizenship and Nationhood in France and Germany*.
41. Sue Peabody, *There Are No Slaves in France: The Political Culture of Race and Slavery in the Ancien Régime* (Oxford: Oxford University Press, 1996). Peabody notes that both Britain and Holland also had freedom principles, but that they were enforced much less effectively than the French policy. She also demonstrates that although the French courts were quite liberal and activist in freeing slaves in metropolitan France, the government, fearful of nonwhite immigration, enacted illiberal policies aimed at restricting the rights of blacks and other people of color from entering and remaining on French soil.
42. Patrick Weil and John Crowley, "Integration in Theory and Practice: A Comparison of France and Britain," *West European Politics* 17, 2 (April 1994), p. 112.

43. On slavery and race issues in the French Caribbean, see Mickaëlla Périna, *Citoyenneté et sujétion aux Antilles francophones: post-esclavage et aspiration démocratique* (Paris: L'Harmattan, 1997).
44. Laurent Dubois, *Les Esclaves de la République: l'histoire oubliée de la première émancipation 1789-1794* (transl. Paris: Calmann-Lévy, 1998).
45. Alice L. Conklin, *A Mission to Civilize: The Republican Idea of Empire in France and West Africa, 1895-1930* (Stanford: Stanford University Press, 1997), p. 9.
46. Charles-Robert Ageron, *Histoire de l'Algérie contemporaine*, 8th ed. (Paris: Presses Universitaires de France, 1983); Vincent Confer, *France and Algeria: The Problem of Civil and Political Reform, 1870-1920* (Syracuse: Syracuse University Press, 1966).
47. Tzvetan Todorov, *On Human Diversity: Nationalism, Racism, and Exoticism in French Thought* (transl. Cambridge, MA: Harvard University Press, 1993), pp. 90-170. For a "pre-history" of the term racism in France, see also Pierre-André Taguieff, *La Force du préjugé: essai sur le racisme et ses doubles* (Paris: La Découverte, 1987), pp. 122-51.
48. See Eugen Weber, *Action Française: Royalism and Reaction in Twentieth Century France* (Stanford: Stanford University Press, 1962).
49. Taguieff, *La Force du préjugé: essai sur le racisme et ses doubles*, pp. 16-17.
50. Emile Durkheim, *Suicide: A Study in Sociology* (transl. New York: The Free Press, 1951 [1897]), p. 85.
51. See Lilyan Kesteloot, *Black Writers in French: A Literary History of Negritude* (transl. Philadelphia: Temple University Press, 1974); Irving Leonard Markovitz, *Léopold Sédar Senghor and the Politics of Negritude* (London: Heinemann, 1969).
52. Herman Lebovics, *True France: The Wars over Cultural Identity, 1900-1945* (Ithaca: Cornell University Press, 1992), p. 10.
53. See Henry Rousso, *The Vichy Syndrome: History and Memory in France since 1944* (trans. Cambridge: Harvard University Press, 1994).
54. Patrick Weil, "Racisme et discrimination dans la politique française de l'immigration: 1938-45/1974-95," *Vingt-tième Siècle* 47 (juillet-septembre 1995), pp. 77-102.
55. Research comparing the use of racial or ethnic terminology by the French state before and after the Second World War has, to my knowledge, yet to be undertaken.
56. This is not to say that references to race disappeared following the Vichy years. Writers such as Jean-Paul Sartre and Claude Lévi-Strauss devoted attention to the problems of race in the 1940s and 1950s, and two decades of decolonization coupled with political activism by authors such as Frantz Fanon served to keep race in the public eye. Nevertheless, it was after Vichy that most race-conscious state policies and domestic institutions lost credibility and public sympathy. See Jean-Paul Sartre, "Orphée Noir," in Léopold Sédar Senghor, ed., *Anthologie de la nouvelle poésie nègre et malgache de langue française* (Paris: Presses Universitaires, 1948); Claude Lévi-Strauss, *Race and History* (Paris: UNESCO, 1958); Frantz Fanon, *Peau noire masques blancs* (Paris: Seuil, 1952).
57. Throughout the 1960s and the early 1970s, for example, the government refused to consider antiracist legislation on the grounds that "it would be contrary to the goal aimed at—to campaign against what does not exist, in the sense of a systematic tendency and an organized movement" (Prime Minister Jacques Chaban-Deïmas, interview given to the *Tribune Juive*, reported in *Le Monde*, 6 February 1971).
58. At the time MRAP stood for *Mouvement contre le Racisme, l'Anti-Sémitisme et pour la Paix*. Since 1977, the acronym has stood for *Mouvement contre le Racisme et pour l'Amitié entre les Peuples*.
59. *Ligue Internationale Contre le Racisme et l'Antisémitisme*.
60. There is a small debate over whether the MRAP was itself a Communist organization. Former MRAP General Secretary Albert Lévy argues that this label was attached to the MRAP for political reasons, pointing out that MRAP Presidents

- Blumel, Lyon-Caen and later Paraf were not members of the Communist Party (interview with Lévy, 19 March 1997).
61. At the time, the group now known as the LICRA was the LICA: the *Ligue Internationale Contre l'Antisémitisme*.
62. Albert Lévy "Mémoire du MRAP." Paper presented at the La Journée de Formation, Rhône-Alpes, France 1993, p. 2.
63. Ibid.
64. André Blumel had taken part in the Blum government of the 1930s; and Léon Lyon-Caen and Robert Attuly were both honorary presidents of the Cour de Cassation.
65. Lévy "Mémoire du MRAP," pp. 3-4. One of the most prominent of these periodicals was "*Aspects de la France*," which played symbolically upon the initials of the "*Action Française*," and even counted the latter's former leader, Charles Maurras, among its writers.
66. MRAP, *Chronique du flagrant racisme*, pp. 9-13.
67. Ibid., p. 10.
68. Because this process took place in a very young organization, no records exist of the early proposals in the MRAP archives.
69. Léon Lyon-Caen, "Le MRAP Soumet au Parlement Deux Propositions de Loi," *Droit et Liberté* 180/284 (1959); MRAP, *Chronique du flagrant racisme*, pp. 117-22.
70. Including discrimination by public authorities.
71. Lévy "Mémoire du MRAP;" Pierre Paraf, *Le Racisme dans le monde* (Paris: Payot, 1964).
72. In the interim, the MRAP proposals had, however, been amended and added to by various parties. For a detailed discussion of the passage of the law see Erik Bleich, *Problem-Solving Politics: Ideas and Race Policies in Britain and France* (Ph.D. Dissertation, Harvard University, 1999); MRAP, *Chronique du Flagrant Racisme*.
73. No. 2357, Assemblée Nationale, 4e législature, 25 mai 1972, Rapport.
74. Communication with Terrenoire, 24 October 1999. Note that the law as formulated does not explicitly protect or recognize racial or any other groups as such.
75. No. 2394, Assemblée Nationale, 4e législature, 7 juin 1972, Rapport Supplémentaire. The Committee also accepted several technical suggestions from the Government.
76. Interview with Terrenoire, 5 April 1997. The Government (in the form of Ministry of Justice bureaucrats) argued simply that race referenced "anatomical criteria" and was thus not the same as (and therefore would not be covered by clauses on) ethnicity or nationality. It also argued, interestingly in light of late 1990s debates and jurisprudence about anti-immigrant racism, that punishing discrimination based on nonmembership in a group (as the 1972 law does) was vital and insightful. The Government asserted that "provoking discrimination, hatred or violence against people defined as non-French or nonwhite, for example, is as reprehensible as that which targets, for example, non-Catholics, or non-Christians." See Archives du Ministère de la Justice, Folder: amendements présentés par le Gouvernement.
77. There was also agitation in committee and National Assembly debate for protection against discrimination against Corsicans and other regional groups. A "Corsican clause" was, however, not added to the law. See No. 2357, Assemblée Nationale, 4e législature, 25 mai 1972, Rapport, p. 14; Journal Officiel [hereafter JO], Débats Parlementaires, Assemblée Nationale, 8 juin 1972, p. 2292.
78. It is also illegal to store data on political, philosophical, or religious opinions, or on union membership. However, churches and religious, philosophical, political and union groups may legally keep a register of their own members. Minority groups may not legally keep records of their members, unless they obtain members' permission or the permission of the state (see JO, Lois et Décrets, 78-17, 7 janvier 1978, p. 229).
79. Interview with Palant, 10 March 1997.

80. See No. 3125, Assemblée Nationale, 5e législature, 4 octobre 1977, Rapport, pp. 25-26; JO, Débats Parlementaires, Assemblée Nationale, 6 octobre 1977, 5878-79; No. 72, Sénat, 1e session, 10 novembre 1977, Rapport; JO, Débats Parlementaires, Sénat, 18 novembre 1977, pp. 2799-2801.
81. Confidential interview, Paris, 30 June 1997.
82. On immigrant activism, see Blatt, "Immigration Politics and Immigrant Collective Action in France, 1968-1993." On the end of open immigration policies, see Weil, *La France et ses étrangers: l'aventure d'une politique de l'immigration de 1938 à nos jours*.
83. Weil, "Immigration and the Rise of Racism in France: The Contradictions in Mitterrand's Policies," p. 89.
84. Françoise Henry-Lorcerie, "Enfants d'immigrés et école française: à propos du mot d'ordre de pédagogie interculturelle," in Larbi Talha, ed., *Maghrébins en France: émigrés ou immigrés?* (Paris: Editions du Centre National de la Recherche Scientifique, 1983), pp. 267-98.
85. William Safran, "The French State and Ethnic Minority Cultures: Policy Dimensions and Problems," in Joseph R. Rudolph and Robert J. Thompson, eds., *Ethnoterritorial Politics, Policy and the Western World* (Boulder: Lynne Rienner, 1989).
86. See Blatt, "Immigration Politics and Immigrant Collective Action in France, 1968-1993;" Bouamama, *Dix ans de Marche des Beurs: chronique d'un mouvement avorté*. 1983 was the most effective year for the marches. As Blatt notes, by 1985 the *Marche des beurs* was only a shadow of its former self.
87. Rémy Leveau and Catherine Wihitol de Wenden, "La Deuxième génération," *Pouvoirs* 47 (1988): 61-73; Diana Pinto, "Immigration. L'Ambiguïté de la référence américaine," *Pouvoirs* 47 (1988): 93-101.
88. Marie Poinot, "Competition for Political Legitimacy at Local and National Levels among Young North Africans in France," *New Community* 20, 1 (1993): 79-92.
89. Hargreaves, *Immigration, "Race" and Ethnicity in Contemporary France*, pp. 204-05.
90. Blatt, "Immigration Politics and Immigrant Collective Action in France, 1968-1993;" Poinot, "Competition for Political Legitimacy at Local and National Levels among Young North Africans in France."
91. See Franklin Hugh Adler, "Racism, *différence* and the Right in France," *Modern and Contemporary France* 3, 4 (1995): 439-51.
92. See esp. Taguieff, *La Force du préjugé: essai sur le racisme et ses doubles*.
93. Harlem Désir, "Pour l'Intégration: conditions et instruments," in Pierre-André Taguieff, ed., *Face au racisme: les moyens d'agir* (Paris: Éditions La Découverte, 1991), pp. 106-19.
94. Such as the existence of a "pseudo-thesis" denying the Nazi gas chambers, cries of "Arabs in the oven" heard at an industrial conflict, the attack on a synagogue in the rue Copernic, and the murder of a young Algerian (Habib Grinzi), thrown from a train in the south of France. See No. 762, Assemblée Nationale, 8e législature, 31 mai 1987, Rapport, pp. 5-6; No. 43, Assemblée Nationale, 9e législature, 15 juin 1988, Proposition de Loi, pp. 5-6.
95. The bill also called for two general statements of principle: support for the 1965 United Nations International Convention to End All Forms of Racial Discrimination, and an enjoinder to French schools to inculcate "the respect of the individual and of his origins and differences." See No. 762, Assemblée Nationale, 8e législature, 31 mai 1987, Rapport, pp. 10-11; No. 43, Assemblée Nationale, 9e législature, 15 juin 1988, Proposition de Loi, pp. 10-11.
96. The Hannoun Report advocated to potential deprival of certain civil rights—such as jury participation—for persons convicted of racist crimes. Michel Hannoun, *L'Homme est l'espérance de l'homme* (Paris: La Documentation Française, 1987).
97. See JO, Débats Parlementaires, Assemblée Nationale, 2 mai 1990, esp. 931.

98. See No. 1296, Assemblée Nationale, 9e législature, 26 avril 1990, Rapport. The Socialist Party bill was first submitted in 1988 (with Georges Sarre as first signatory), and then resubmitted unaltered under the first signature of Louis Mermaz in 1989 (No. 1247, Assemblée Nationale, 8e législature, 24 février 1988, Proposition de Loi; No. 1004, Assemblée Nationale, 9e législature, 10 novembre 1989, Proposition de Loi).
99. No. 1004, Assemblée Nationale, 9e législature, 10 novembre 1989, Proposition de Loi, p. 5.
100. No. 1004, Assemblée Nationale, 9e législature, 10 novembre 1989, Proposition de Loi, p. 6.
101. For example, as Minister of Social Affairs in 1987, Philippe Séguin had himself proposed a significant reform of the 1972 antiracism law (*La Croix*, 7 May 1987; *Libération*, 7 August 1987).
102. *Nouvel Observateur*, 10/16 May 1990.
103. The *rapporteur's* original proposals called for the civil rights penalty to apply in all cases of racist crimes; the committee limited application to what it considered the worst racist crimes (No. 1296, Assemblée Nationale, 9e législature, 26 avril 1990, Rapport, p. 20).
104. As determined by Article 42 of the French penal code.
105. Such as the Fédération Nationale de la Presse Française, the Syndicat des Quotidiens Régionaux, as well as journalist organizations (see *Quotidien de Paris*, 3 May 1990; *Le Monde*, 3 May 1990; *Le Figaro*, 3 May 1990).
106. JO, Débats Parlementaires, Assemblée Nationale, 2 mai 1990, p. 902.
107. JO, Débats Parlementaires, Assemblée Nationale, 2 mai 1990, pp. 952-54. Note that journalists would not have been banned from practicing their profession in case of deprivation of civil rights. This amendment was therefore designed to appease the media lobby in the face of its mobilization.
108. Francis Delattre, Philippe de Villiers and Louis de Broissia disapproved of the law in part for this reason. Marie-France Stirbois, the sole FN deputy at the time, also used this argument as one of many for opposing the law (JO, Débats Parlementaires, Assemblée Nationale, 2 mai 1990, pp. 906-07, 909).
109. *Quotidien de Paris*, 3 May 1990.
110. JO, Débats Parlementaires, Assemblée Nationale, 2 mai 1990, pp. 928-29.
111. JO, Débats Parlementaires, Assemblée Nationale, 2 mai 1990, p. 946.
112. The law punished those who contested the existence of crimes against humanity committed during World War Two (namely, the Holocaust), which some at the time referred to as revisionism and others as negationism. Negationism has since become the term of choice in France for these crimes, since revisionism has also been applied to valid academic work which "revised" the understanding of history. I use revisionism instead of the French term "negationism" to reflect popular English language usage of the term and to avoid introduction of a neologism.
113. JO, Lois et Décrets, 90-615, 14 juillet 1990, pp. 8333-34; Ministry of Justice Circular CRIM 90-09 F1/27-08-90.
114. See the interview with Madeleine Rébérioux in *Libération*, 4 May 1990.
115. Hannoun, *L'Homme est l'espérance de l'homme*.
116. *Quotidien de Paris*, 3 May 1990.
117. *Nouvel Observateur*, 10-16 May 1990.
118. JO, Débats Parlementaires, Assemblée Nationale, 2 mai 1990, p. 954.
119. Many of the procedural roadblocks were erected by the National Front Deputy (Marie-France Stirbois), though the mainstream Right was also responsible for significant delays.
120. JO, Débats Parlementaires, Assemblée Nationale, 2 mai 1990, pp. 901-07; *Le Monde*, 4 May 1990.

121. The MRAP proposals of the late 1950s were first submitted in Parliament by the Communist Party in 1959. In later years, deputies from the Right also submitted similar bills on their own initiative. See Bleich, "Problem-Solving Politics: Ideas and Race Policies in Britain and France," chapter 5.
122. Under the Constitution of the Fifth Republic, the Senate has the power to delay government projects, but not to stop them. By ignoring government bills, the Senate sends a strong signal of disapproval, but as a consequence it foregoes any influence over the law's final form.
123. *Nouvel Observateur*, 10-16 May 1990; *Le Monde*, 4 May 1990.
124. JO, Débats Parlementaires, Assemblée Nationale, 2 mai 1990, p. 903.
125. Commission Nationale Consultative des Droits de l'Homme, 1996. *La Lutte contre le racisme et la xénophobie: exclusion et droits de l'homme*, p. 373.
126. Whether officially recognizing these groups would aggravate antagonism towards them, however, remains an open question.
127. Haut Conseil à l'Intégration, *Pour un Modèle Français d'Intégration* (Paris: La Documentation Française, 1991), p. 18.
128. For a summary of much of the work in this area, see Haut Conseil à l'Intégration, *Rapport du Haut Conseil à l'Intégration relatif aux discriminations* (Paris: Haut Conseil à l'Intégration, 1998).
129. Commission Nationale Consultative des Droits de l'Homme, 1996. *La Lutte contre le racisme et la xénophobie: exclusion et droits de l'homme*, pp. 362-63. The most recent High Council on Integration report places the number of convictions for 1995 at 74 and for 1996 at 81 (Haut Conseil à l'Intégration, *Rapport du Haut Conseil à l'Intégration relatif aux discriminations*, p. 84). It is unclear whether the disparity between these figures and those of previous years is due to an increase in convictions or a different tabulation method. Furthermore, the HCI notes that the 1995-96 statistics are still small compared to the number of complaints of discrimination in France and compared to the average of 2,000 convictions per year in Great Britain.
130. Haut Conseil à l'Intégration, *Rapport du Haut Conseil à l'Intégration relatif aux discriminations*.

LES POLITIQUES FRANÇAISES DE LUTTE CONTRE LE RACISME, DES POLITIQUES EN MUTATION

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Il pouvait sembler évident, jusqu'à une période très récente, que la formule célèbre du juge Blackmun selon laquelle, « pour en finir avec le racisme, nous devons d'abord prendre la race en compte »¹ n'avait aucune chance de s'acclimater en France. La culture politique républicaine, exprimée et confortée par des principes constitutionnels fermement énoncés², s'opposait à la prise en compte d'un critère de catégorisation tenu pour intrinsèquement infamant et dénué de tout contenu positif : le droit français contemporain ne mentionne la « race » que pour en proscrire la prise en compte ; la seule « race » qu'il connaisse est la race du raciste.

Dans ce contexte, les nombreuses politiques de discrimination positive instituées en France depuis une vingtaine d'années se distinguent nettement de l'*affirmative action* américaine³. Approche spatialisée des handicaps sociaux destinée à mieux lutter contre les inégalités socio-économiques, elles n'ont rien à voir, dans leur principe comme dans leurs objectifs, avec une *affirmative action* américaine qui recourt à des critères ethno-raciaux aux fins de promouvoir (entre autres) un idéal de « diversité ».

Strictement *color-blind*, la discrimination positive « à la française » accorde divers avantages et préférences à des catégories d'individus définies sur la base de critères exclusivement socio-économiques. L'instauration de zones d'éducation prioritaires, par exemple, se donne pour objectif, aux termes de la circulaire du 1er juillet 1981, de « contribuer à corriger l'inégalité par le renforcement sélectif de l'action éducative ». Elle consiste, selon la loi de 1989, à apporter « un soin pédagogique tout particulier » aux « populations scolaires issues de catégories sociales défavorisées ». Cette action spécifique se traduit par le fait que des moyens supplémentaires sont accordés, notamment en ter-