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France's Compliance of the International Convention on the Elimination of all forms of Racial Discrimination: French Universalism versus Group Rights

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France's Compliance with the International Convention on the Elimination of
All Forms of Racial Discrimination: French Universalism vs Group Rights

A thesis submitted in partial fulfillment of the requirement
for the degree of Bachelor of Arts in French and Francophone Studies
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by

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Accepted for Highest Honors
(Honors, High Honors, Highest Honors)



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Abstract

There exists a constant battle between universalism and anti-racism in France, where universalism is positioned as the predominant force of western values and anti-racism as a dog-whistle for ‘wokeness’. This thesis will position that France is predisposed to incomplete compliance with the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) in part due to its rooted concept of French universalism and the nationalistic undertones therein that do not tolerate intermediate identifications between the individual and the Republic. The purpose of this argument is to generate an interpretive tool to observe and analyze France’s relatively weak civil society with reference to who enjoys rights within the country. The first chapter will focus on the historical context from which the ICERD was created, France’s role in the creation of it, and how the ICERD is constitutive of the idea of group rights. The chapter will then conclude that despite its western influence and universalistic roots, the ICERD pulls universalism in a direction that includes the rights of groups. The second chapter will focus on three ‘canonical’ French primary texts in a textual archeology of “French universalism”. The chapter will conclude that through these three texts, a unique, coercive, and nationalistic form of universalism is canonized as a major aspect of French national identity. The final chapter will use various political science theories along with “French universalism” to analyze France’s obligation-level compliance with the ICERD. It will conclude that while France is mostly compliant with the ICERD, it is predisposed to incomplete compliance as a result of French universalism’s inability to tolerate group rights.

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Introduction

There presently exists a seemingly ideological battle between universalism and anti-racism in France, where universalism is positioned as the predominant force of western and republican values and anti-racism as a dog-whistle for ‘wokeness’. In May of 2022, a ‘woke radical’ and historian of race in the United States and France, Pap Ndiaye, was appointed as the Minister of Education and Youth in France to the dismay of many anti-woke ‘universalists’, amongst them his direct predecessor Jean-Michel Blanquer. Under Blanquer, his office believed they had to “*choisir entre la pensée universaliste et le combat antiraciste comme si l’un excluait l’autre.*”¹ Viewed in the media as a direct foil to Blanquer, Ndiaye has been a key figure in popularizing black studies and studies centered around minoritized communities in France. Part of his mission as Minister of Education is to advance a policy of equity for those who need the most in primary and secondary education.² When simply googling French president Emmanuel Macron’s name with the word “universalism” in tow, dozens of articles in French, American, and European media sites pop up all exclaiming his disdain for ‘wokisme’ and a call for universalism. The Washington Post quotes him saying (in defense of the French model of universalism), “I believe in plurality in universalism, but that is to say, whatever our differences, our citizenship makes us build a universal together.”³ He positions his idea of integration against that of the United States centering the republican national identity. These terms, seldom defined, act as hollow shells to hash out a ‘culture war’ rather than actually view problems present within

¹ Sylvain Courage and Gurvan Le Guellec, “Au-Delà du symbole,” *L’Obs*, May 26, 2022, 21.

² Ibid.

³ James McAuley, “Macron may not like it, but U.S. ‘multiculturalism’ has some lessons for France,” *The Washington Post*, February 3, 2021, <https://www.washingtonpost.com/opinions/2021/02/03/macron-france-terror-attacks-islam-interview-multiculturalism/>

the state. Ndiaye may have been appointed by Macron, and this may seem like a move in an anti-racist direction for France, but Macron has a firm stance on backing universalism.

What makes Pap Ndiaye such an important example of the current debate lies in his positions of anti-racism as a staple of his thinking. He believes that diaspora *communities* exist within France and this stands in direct opposition of what both Macron and Blanquer would assert as universalism.⁴ Colorblind universalism, to Ndiaye, is not functional in actually uplifting marginalized groups in France, so he is focused much more on uplift of minority communities that face regular and normalized disadvantages (ie., historical and systemic racism) compared to their white French counterparts.⁵ For him, the rights of groups must be considered to actually achieve universal human rights in practice for all French people contrary to what others in power in France would assert.

In this contemporary moment, trying to derive meaning from universalism, anti-racism, and “wokism” might seem like a trivial pursuit or allowing oneself to be pulled into an intellectual void. Moving forward with real policy that engages with the present issues found in the current torrent of anti-woke positions that apparently upend any progress made by universalism and western values is an essential step forward for France. This thesis wishes to ground the debate, exemplified by Ndiaye’s appointment, in a canonical interpretation of what universalism means in a French context. It is important to note that not everyone lambasted Ndiaye as a woke leftist poised to destroy French values, and he is even painted rather positively by the L’Obs piece. While there is no consensus on the topic of *wokisme* in France, there does not have to be such a dichotomous opposition between universalism and anti-racism. Using the

⁴Pap Ndiaye, *La condition noire: essai sur une minorité française*, Calmann-Lévy, 2008.

⁵ Clarini 2022, p. 24.

backdrop of the United Nations International Convention on the Elimination of all forms of Racial Discrimination (ICERD), this thesis will focus the argument on France's impact on the creation of the treaty and its obligation level compliance with the treaty through the lens of French universalism. Hopefully it will shed some light onto how France is actually acting rather than adding another empty interpretation of why Macron has 'gone woke' after appointing Pap Ndiaye.

It seems like there has been a debate centered around what term to use to describe France's contemporary moment. What can be used to describe France's understanding of human rights? How does a distinctly French understanding of the public and private, the nation and the individual, lead to direct actions from the state that install a national identity above those identities that exist at the margins of the republican consensus? This thesis aims to demonstrate that the concept of French universalism and its nationalistic and homogenous nonrecognition of group rights is a useful lens with which to analyze the French state's actions towards groups within its borders, in particular as regards its compliance with the ICERD. In short, it argues that France is predisposed to incomplete compliance with the ICERD in part due to its rooted concept of French universalism and the nationalistic undertones therein that do not tolerate intermediate identifications between the individual and the Republic.

Methods

The thesis will be broken into three chapters, each relevant to the next. Each chapter has a distinct methodology backing it with the eventual goal of demonstrating France's predisposition to incomplete compliance as a result of how French universalism positions human rights in a

postcolonial context in the country. The current debate was shown, but this debate over "wokism" and the purported opposition between French universalism and group rights-oriented anti-racism did not appear out of nothing, and it will not go away without addressing the context from whence it was generated. Each chapter aims to provide that necessary context to demonstrate why universalism and the fight against racism can walk hand and hand instead of away from one another. These are not two diametrically opposed concepts, and a more pluralistic form of universalism could be formed with an active rooting out of racism hinged on tolerance of group identities instead of coercive assimilation and an abstractly colorblind egalitarianism. Thus, the aim of this thesis is to demonstrate that even despite the universalist roots of the ICERD, France is predisposed to not fully comply with the granting of group rights to marginalized communities as a result of the canonical nature of French universalism and its coercive force against a broader understanding of universalism.

The first chapter will focus on the historical context from which the ICERD was created, France's role in the creation of it, and how the ICERD is constitutive of the idea of group rights. It focuses on historiography and a close text analysis of the ICERD in order to demonstrate that the ICERD is new and unique in how it seeks to uplift marginalized communities within states. The methodology is, appropriately then, historical analysis of primary documents surrounding the drafting, debating, and eventual voting of the ICERD. By rooting the analysis in historical context, a clear picture of the intentions and end product of the ICERD are painted with the major players in mind. It is similarly important to analyze for the most part primary documents; though, to fully understand France's role in the creation of the ICERD with reference to a relevant historical context, academic writings and books will be necessary. France's postcolonial status will be examined as well as other socio-political factors that impact France's eventual

decision to ratify the treaty. The chapter will also methodically analyze the ICERD's text with reference to prior literature on the concept of group rights. This close textual analysis will explain the unique nature of the ICERD as a group centric multilateral human rights treaty aimed at uplifting marginalized communities. A close textual analysis of the treaty is an important and relevant methodological approach to defending the treaty's group right status. The chapter will then conclude that despite the western influence and universalistic roots, the ICERD pulls universalism in a direction that includes the rights of groups— something that France would have been especially reluctant to apply to the growing postcolonial immigrant diaspora communities growing within its borders.

The second chapter will focus on three 'canonical' French primary texts in what will act as a sort of textual and ideological archeology of what the chapter will coin as 'French universalism'. Rooted in Foucault's analytical method of the 'archeology of knowledge', will use the three texts listed below to explain how a canonical French universalist thought is not only present but dominant in French republican national identity.⁶ The methodology will follow a similar pattern for each text. First, a textual analysis and historical context will be undertaken. Second, contemporary usages of the primary text will be unearthed in order to demonstrate their canonical nature. Finally, each will be examined as generating an aspect of French universalism. The first text that will be analyzed is the *Declaration des Droits de l'Homme et du Citoyen* (DDHC). There are few French texts that have the same pervasive and global implications than the DDHC, and it will be used to demonstrate universalism as a staple of French human rights. The second text will be a more obscure revolutionary era law, *La Loi le Chapelier* (1791). The

⁶ Foucault's archeology of knowledge is an analytical method that centers discourse that eventually gets normalized as knowledge. This form of methodology becomes useful when examining the three texts and their influence on French national identity.

chapter will argue that this law demonstrates that France does not leave room for individuals to associate with groups between the individual and the nation—group identification is not a valid positionality under French universalism. The last text that will be examined is *Qu'est qu'une Nation* (1889) by Ernest Renan. This text builds on the definition of French universalism by demonstrating the uplifting of national identity over the identity of groups within the state—he asserts a consensus model of national identity that would intrinsically underrepresent minority voices within the nation. The chapter will conclude that through these three texts, a unique, coercive, and nationalistic form of universalism is canonized as a major aspect of French national identity.

The final chapter will be the most straightforward methodologically. Using various political science theories, the chapter will analyze France's obligation level compliance with the ICERD. Using Beth Simmons' (2009) theory of commitment (to multilateral human rights treaties), the chapter will first argue that France is a sincere ratifier (a ratifier that actually supports the values of the treaty being ratified) as opposed to a strategic ratifier.⁷ The chapter will then move into an analysis of compliance with the ICERD. This will follow Simmon's theory of compliance (to multilateral human rights treaties) as well as build off the first chapter's close text analysis of the ICERD. Kelebogile Zvobgo, Wayne Sandholtz, and Suzie Mulesky (2020) positioned a strong theory of reservations (on multilateral human rights treaties) that will be used to examine France's reservation on the ICERD and what that means for its overall compliance with the treaty. Each treaty obligation will then be examined in terms of noncompliance. Instead of examining fully how France is complying and not complying, only

⁷ Beth A. Simmons, *Mobilizing for human rights: international law in domestic politics*, Cambridge University Press, 2009.

examples of noncompliance will be addressed to assert that France is not fully compliant with the treaty. There is always something to work on with respect to treaty compliance, so the argument is not that France is entirely noncompliant or compliant but rather to explain where France is noncompliant and if that can be linked back to French universalism. Thus, the chapter will move to using the definition of French universalism built in the previous chapter to explain France's instances of noncompliance and point out some arguments France may use to assert it is in fact compliant under its interpretation of universalism. It will then conclude that while France is mostly compliant with the ICERD, it is predisposed to incomplete compliance as a result of French universalism's inability to tolerate group rights.

These three chapters will serve as a scaffolded argument to build up both the ideas of group rights and French universalism as determinant factors in France's eventual compliance with the ICERD. It is also important to note that because the first chapter is centered around the creation of the treaty, French universalism is not explicitly discussed but can still be seen in France's actions with the treaty drafting and politically at the time. The final chapter will argue France's sincerity in ratification as will the first chapter, but good intentions of a state do not assume complete compliance with a treaty as there are multiple factors that play into compliance. Each chapter follows different, though useful, methodologies in order to build a rather comprehensive as well as operational definition of French universalism that can be applied across other treaties to analyze compliance.

Chapter 1: The ICERD, Group Rights, and Postcolonial France's Role Therein

To draft a treaty on an international stage condemning racism globally is a massive undertaking and one that the drafters of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD), adopted in 1969, did not take lightly. From the United Nations' birth in 1945, only one other human rights treaty had been drafted and adopted, the Genocide Convention (1948). The contents of the ICERD would pave the way for a new type of human rights treaty, one focused not on just the universal rights of humans, but on those same rights being afforded to oppressed and marginalized groups. The Genocide Convention, being the first human rights treaty created by the UN, moves in this direction but focuses on gross human rights abuses against groups rather than what rights the members of those groups are denied by states.⁸ Thus, the ICERD becomes the next core treaty body at the UN level, and seeks to establish a new conception of "group rights" such that all rights that humans have are enjoyed by all people via the protection of groups rather than a focus on individuals. This chapter will argue that, while there are strong universalist roots in the creation and in the text itself, the ICERD compellingly moves universality in a direction that can include group rights and cultural identity. The chapter will begin with a discussion of the creation and background of the treaty to give a broader context to its place in postcolonial France and broader 'francophone' societies. It will be followed with a discussion of what group rights are and how treaties related to the

⁸ The Convention on the Prevention and Punishment of the Crime of Genocide, commonly referred to as the Genocide Convention, was adopted in December of 1948 by the UN. Unlike every subsequent UN human rights treaty, it has no committee body that monitors compliance, and the International Court of Justice directly oversees alleged genocide; *The Convention on the Prevention and Punishment of the Crime of Genocide*. Paris, France: UN General Assembly, 1948.

ICERD and the ICERD moved them forward. Finally, the chapter will close on a close textual analysis of the ICERD to discuss what obligations it imparts on states and how the text itself manifests group rights.

1.1: Background of the creation of the ICERD

Treaty building is often a tense affair filled with debates between major players drawing lines and forming divisions.⁹ It is standard for a sub-commission to form in order to hash out the particulars of what ought to be included in a treaty body, and the move towards a treaty that addressed the treatment of racially marginalized groups likely would not have happened without the formation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. This sub-commission that was founded in 1961, as well as the Commission on Human Rights (founded in 1946 by the UN charter), found that it was important to address the discrimination faced by minorities, and had a strong focus on religious minorities, especially in the fight against antisemitism.¹⁰ At first, the *travaux préparatoires* (1961-5) focused on making a treaty that extended rights to religious and cultural expression; however, as time elapsed strong opposition to the idea of recognizing the State of Israel led to the commission deciding to divide racial discrimination and religious discrimination into separate treaties.¹¹ This had the effect of wiping all but two mentions of religion of the final treaty. It is important to note the roots of

⁹ In her book, Baldez describes the intense and often contentious battle many competing groups waged to finally achieve the CEDAW and includes the treaty building climate of that time throughout the first chapter of her book; Lisa Baldez, *Defying convention: US resistance to the UN treaty on women's rights*, Cambridge University Press, 2014.

¹⁰ Annapurna Waughray and David Keane, "Fifty years of the International Convention on the Elimination of All Forms of Racial Discrimination: A living instrument," in *Fifty years of the International Convention on the Elimination of All Forms of Racial Discrimination* (Manchester University Press, 2017), 3-4.

¹¹ *Ibid.*

religious protections in the *travaux préparatoires* because of the context it gives the intent of the treaty and thus its implicit goals. The sub-commission consisted predominantly of western states including but not limited to France, The United States, and Great Britain. Out of the 13 members of the sub-commission, four of them were former colonies or territories of the other western members. Many European states were present, but it left Sudan to represent the whole of Africa, Chile the whole of South America, the Philippines the whole of Oceania, and India the whole of Asia.¹² The lopsided nature of the sub-commission eventually led to Sudan's representative Mr. Rannant to lead a massive study for the necessity of a treaty regarding specifically anti-discrimination.¹³ As the sub-commission moved on, it focused almost exclusively on racial discrimination, and the 1963 Declaration on the Elimination of Racial Discrimination was drafted and passed.¹⁴ While this is a major step in the treaty building process, it would take two more years of deliberation in the sub-commission and eventually the UN General Assembly to actually receive a final draft in 1969.

Here, it is important to assert the importance of post-colonial states during the deliberation process of this treaty. Some of the major proponents of this treaty were new states that were former colonies, such as Senegal and Sudan, and acted as the surrogates of minority rights abroad.¹⁵ Notably, the four post-colonial states of the sub-commission (The Philippines, Sudan, Chile and India) fought hard for the actual drafting of a treaty with resistance from

¹² Commission member nations included: United States, Sudan, United Kingdom, Italy, Philippines, Soviet Union, France, Poland, India, Austria, Finland, Chile

¹³ Voitto Sario, *Report of the fifteenth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the Commission on Human Rights*, New York, New York, United States: United Nations, 14 January to 1 February 1963.

¹⁴ It is not uncommon for a declaration to precede an actual treaty draft, but declarations are simply resolutions made by the general assembly and have no obligatory force. This remains true of the DERD, and even without obligatory force the declaration itself contains eleven weak articles and lacks a definition of 'racial discrimination' making it a notably lacking declaration; General Assembly resolution 1904 (XVIII), New York, New York, United States: United Nations, 1963.

¹⁵ Keane & Waughray, *Fifty Years of the ICERD*, 4-6.

western states, specifically in drafting trying to limit the extent of the treaty, within and outside of it.¹⁶ This push, however, centered anti-discrimination as a negative right—states had to get rid of discriminatory policy not give rights to groups. As Johns relays in her book, this is in line with universalist thinking during this period where many post-colonial states acted with universalism in mind until moving more broadly to relativism.¹⁷ Still, the major push from former colonies after the drafting of the ICERD eventually sees success and the treaty is voted on 21 December 1965, with 106 states voting in favor to adopt it in the UN General Assembly, a single abstention, and none in negation.¹⁸ This near unanimous support for the treaty can very well be traced to the universalist and relatively low obligatory standards the treaty created for states, but it is a major development in human rights treaty making as it served as a stepping ground for multiple further treaties regarding the rights of groups.¹⁹ Eventually, 27 states ratify the treaty by 1969 and it enters into force three months after the 27th ratification occurs.²⁰ Two full years later in 1971, France ratifies the treaty despite multiple former colonies having done so soon after the treaty was adopted, or at least before France did so.

The above recounting of the process of draft to entry into force unveils three central questions for this section. First, how were group rights centered in the creation of the treaty? Second, whose voices dominated the treaty creation process and what impact did that have on the final draft of the treaty? And third, what was France's role in the creation of the treaty and what can help explain France's tardy commitment to the treaty? Giving the historical context for these

¹⁶ Voitto, *Report of the 15th session*.

¹⁷ Leslie Johns, (2022), "Human Rights," in *Politics and International Law* (Cambridge: Cambridge University, 2022). Press.

¹⁸ International Convention on the Elimination of All Forms of Racial Discrimination, Audiovisual Library of International Law, last modified 2022, <https://legal.un.org/avl/ha/cerd/cerd.html>.

¹⁹ Baldez, *Defying Convention*, 56-7.

²⁰ International Convention on the Elimination of All Forms of Racial Discrimination

three questions will prepare a more thorough analysis in the final chapter by giving context to how group rights are featured in the treaty and how events happening in France at the time of the treaty's creation might have impacted its decision to ratify.

How were group rights centered in the creation of the treaty?

As alluded to, the original conception of this treaty was meant to encompass further rights regarding religious expression and the rights of minority groups. In this sense, this treaty is not fully universalistic, and instead recognizes that not all individuals are afforded the same rights by the states they inhabit. This can be especially noted in the original push against antisemitism that sought to protect Jewish people as well as the push for anti-discrimination provisions to get rid of existing *de jure* racism in all ratifying states.²¹ Even when religious expression is put on the back burner by the sub-commission, the aim was still to eliminate discrimination towards ethnic, racial, linguistic, and cultural minorities. The sub-commission's emphasis on minority groups speaks to a move away from solely universalistic conceptions of human rights even if religious minorities are not given much attention by the treaty drafters after the move away from religious protection. While the goal is rooted in a universalist desire to see all people regardless of minority status afforded the same universal rights, by placing an emphasis on those groups marginalized by states a new sense of group rights is thus installed.

Keane and Waughray's book about what the treaty consists of 50 years after its adoption by the UN General Assembly also argues that the treaty is itself a 'living instrument'. They argue that through the Committee on the Elimination of Racial Discrimination (CERD), it becomes

²¹ Keane & Waughray, *Fifty Years of the ICERD*, 3-6; Sario Voitto, *Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirteenth session*, New York, New York, United States: United Nations, 9 February 1961.

possible to protect more minority groups, and not just those specifically outlined in the body text. When the treaty was being created, however, these adjustments had not been made and the four categories mentioned above (racial, ethnic, linguistic, and cultural) were those that required protection. While there are not specific rights granted to these types of minority groups separately, anti-discriminatory policy is required to be passed by all ratifying states.²² Groups' rights in the ICERD were centered, then, in broader universalistic goals and categories despite more protectionist and rights granting origins in the preliminary phase of deliberations on the prospective treaty.

Whose voices dominated the treaty creation process and what impact did that have on the final draft of the treaty?

It would be expected that most members of the sub-commission spoke evenly about the diverse topics entrusted to them, but in multiple different reports of the sub-commission a different picture is painted. The western states are often focused on the discussions of women's rights, and often take a back seat to post-colonial states with reference to discussions on racial discrimination. Notably, in the beginning, it was predominantly the Soviet Union and western states backing the furthering of religious rights, though once it was no longer politically viable to combine the two treaties, discussions of religious rights usually came from the five post-colonial states.²³ Looking at these reports, it is safe to assert that a massive push from Sudan in particular was instrumental in the creation of the treaty during the sub-commission phase. An interesting

²² The close text analysis will bring to light the main obligations of the treaty, but it is important to understand that this treaty has some of the fewest substantive obligation requirements for ratifiers than the other 9 core human rights treaties from the UN. This is very potentially the result of being the second human rights treaty drafted by the UN; The International Convention on the Elimination of all forms of Racial Discrimination, UN General Assembly, 1965.

²³United Nations, 9 February 1961; United Nations, 14 January to 1 February 1963; Francesco Capotorti, *Report of 16th session of Sub-Commission on Prevention of Discrimination and Protection of Minorities, Chapter II and Annexes II and III*, New York, New York, United States: United Nations, 11 February 1964.

note here is that despite France's role in the sub-commission session, it had very little to say with regards to the dissemination of rights to racial minorities or any minority group for that matter. It mainly chimed in when discussions moved to those of women's rights.²⁴ Western states still had enormous influence and made many adjustments to the treaty draft such as cutting down obligations related to education despite extensive research done regarding discrimination in education globally.²⁵

When it moved to general assembly deliberations, it was very clear where vigorous support was coming from. A major speech given by the Haitian representative Mr. Verret invoked the exploitative nature of colonialism and implied a desire for the treaty to go much further by saying, "Now, heaven be praised, we have produced a document of which the least that can be said is that it is reasonably reassuring," later adding, "We in the Republic of Haiti, ever since the days when our African ancestors freed themselves from the diabolical colonial yoke, have always practised tolerance towards all races."²⁶ This sentiment was shared by other post-colonial states in one of the final deliberations before the Convention was adopted by the General Assembly, but none quite as passionate as this.²⁷ While this zeal could not change the contents of the treaty itself, it gave the impression of broader global south support for the progression of the values outlined in the treaty. The overall impact that these General Assembly sessions had on the treaty were generally very small details or slight amendments to language

²⁴Voitto, *Report of the 15th session*.

²⁵ Ibid.

²⁶ General Assembly 20th session: 1406th plenary meeting, New York, New York, United States: United Nations, 21 December 1965.

²⁷ Ibid.

used in the text, but with the creation of the CERD through the adoption of the treaty, further resolutions clarifying the treaty could be made.²⁸

In the end, it was because of a decolonized Asia and Africa that this treaty had the backing and global support it needed to be adopted by the UN. Even if the treaty does not encompass anti-discrimination for all marginalized or minoritized groups, the treaty still has substantive obligations related to the rights of groups. The most vocal actors were able to draft a treaty that garnered near unanimous support, which can be viewed as a sign of a well drafted treaty. It remains true that the universalistic roots and pressure from the West impeded desired obligations, but that is to be expected in treaty negotiations.²⁹ The efforts and accomplishments of what went behind the creation do not have to be overshadowed by what *could* have been.

What was France's role in the creation of the treaty and what can help explain France's later commitment to the treaty?

The creation of the ICERD, 1961-1965, was in the midst of a time of enormous social change in France. The six years preceding French ratification of the treaty continued this trend of largescale change in French society within the broader context of modernization and economic growth which Jean Fourastié famously christened "Les Trente Glorieuses" (1945-1975). The first years of the French Fifth Republic under President Charles de Gaulle massive

²⁸ To clarify, resolutions made by a committee that oversees a treaty body has no obligatory force, but it is often referred to in the case of confusion or contention. Some committees, including the CERD, can make optional protocols that states can opt into, but it is optional. If opted in, though, those protocols have as much obligatory force as the treaty body itself unlike simple resolutions; Keane & Waughray, *Fifty Years of the ICERD*.

²⁹ Simmons, Reiner, and Baldez all discuss the ways in which treaties must be compromised over in order to eventually result in a treaty's entry into force. Entry into force is often based on a minimum ratification and was 27 in the ICERD's case, so making a treaty accessible to as many parties as possible is often how treaty drafting functions; B. A. Simmons, (2009), Beth A. Simmons, *Mobilizing for human rights: international law in domestic politics*, (Cambridge University Press, 2009); Baldez, *Defying Convention*; Nina Reiners, *Transnational lawmaking coalitions for human rights*, (Cambridge University Press, 2021).

amounts of immigration, the end of the Algerian War for Independence, decolonization in sub-Saharan Africa, the need for new economic systems not dependent on colonies' labor, housing crises, and a national education crisis are just some factors coloring the French experience at this time.³⁰ Ross (1996), in her book *Fast Cars, Clean Bodies*, asserts that as a result of decolonization, France was focusing on and attempting to compartmentalize the many intertwined crises it was facing. She continues by saying that France's 'modernization' was a result of this inward focus, but it is also a contributing factor that explains France's delayed ratification to the ICERD. In a matter of years, France went from being a vast colonial power to having very little non-hexagonal territory, and this kind of shift coupled with the massive shifts in immigration trends from former colonies reduced the state's hegemonic influence.

It is no wonder why France sat back during sub-commission sessions with regards to racial discrimination, allowing predominantly former colonies and global south countries to make most of the large strides in treaty building. Decolonization was seen as a massive blow to France as a power, and "suddenly" it had to house a diaspora from these newly independent states after a series of independence movements.³¹ A relatively staunchly universalist state, France had to address many issues through the lenses of universalism. Thus, when it came to actually creating the treaty, the final draft was light in obligations and focused solely on taking away *de jure* racism as opposed to protecting from *de facto* racism and giving marginalized groups more rights. Even before the treaty creation process, thinkers like Franz Fanon would

³⁰ Ross and Mendras both contextualize a lot about French society from the 1950's through 1984 in an attempt to understand the broad changes happening in France. Ross makes compelling arguments regarding the effect decolonization had on France, while Mendras gives sociological insight into the time period before and after France's ratification of the ICERD; Kristin Ross, *Fast cars, clean bodies: Decolonization and the reordering of French culture*, (MIT press, 1996); Henri Mendras, *La seconde révolution française: 1965-1984*, (Editions Gallimard, 1994).

³¹ Ross, *Fast Cars*.

attack the West's use of universalism as a guise to say all are equal, but then continue to exploit colonies.³² Referencing the impact of the colonizer on newly post-colonial states, Fanon says, "This competition gives a quasi-universal dimension to the most local of disputes. Every meeting, every act of repression reverberates around the international arena."³³ However, the sub-commission, while trying to grant further rights regarding education, ended up falling short on a more group-oriented approach. This settling for less is a key factor that roots this treaty in universalism. The following chapter will focus exclusively on French Universalism in an attempt to examine how these values might clash with the ICERD, but for now it is key to see that while this treaty moved towards group rights it is hard to overlook the present universalist roots.

A case in point, France made a short but assertive speech during the final general assembly deliberations of the ICERD. In opposition to a major amendment and putting forth their intention to place a reservation on an obligation to allow individuals claim that their rights have been infringed upon, France's representative Mr. Combal asserted, "The French delegation would have liked to be able to rejoice unreservedly in the adoption by the General Assembly of a draft international Convention on the Elimination of All Forms of Racial Discrimination. For that reason, we regret that we felt obliged this morning to oppose the adoption of the amendment [A/L.479] to insert anew article 20 in the text of the draft Convention."³⁴ This is an important moment citing France's inability to fully commit to the ICERD despite how much the treaty *did not* protect. Here, Combal demonstrates an unwillingness to allow an amendment protecting against hate speech—putting individual free speech rights over group rights for protection

³² Unlike many decolonial thinkers of this era, Fanon intended to move away from the idea of Pan-Africanism in favor of trying to build true national sentiment in those states warring for independence against their colonizers; Frantz Fanon, *Les Damnés de la terre* (Paris: Seuil 1961); Frantz Fanon, *Peau noire, masques blancs*, (Paris: Seuil 1952)

³³ Fanon, *Les Damnés de la terre*, 35.

³⁴ General Assembly 20th session: 1406th plenary meeting, United Nations, 21 December 1965.

against a major form of racial discrimination and prejudice. Calling the document imperfect and hasty, Mr. Combal did say that the French delegation ultimately voted in favor of the treaty as a whole due to its lofty and important goal of ending racial discrimination.³⁵ The French delegation's ultimate support, however, does not translate to an immediate ratification and it would be another six years after this speech that the treaty was ratified in France. It was also true that France would ultimately place a reservation on the treaty that effectively minimized the amount of domestic policy alteration necessary upon ratification and the treaty's entry into force. The speech that Haiti gave nearly directly opposes most of what the French delegation talks of in its speech, and is a key piece of evidence regarding the fracture between France and its former colonies policy positions.³⁶

Continuing onto what went into France's late ratification, over the period between 1965 and 1984 that Henri Mendras coins as "la seconde revolution française," massive changes in economic and social structure placed France in a particular space to have to address growing concerns of economic inequality, poverty, and immigration emerged.³⁷ Designating this as a "second revolution," Mendras is pulling the reader's attention to a truly pivotal moment in French history; this is a post-colonial France grappling with a need to modernize as a result of pressurizing economic growth in neighboring states as well as a burgeoning international community both regionally and globally. Even when considering Jean Fourastié's idea of '*les Trentes Glorieuses*,' Mendras wishes to push the envelope forward in time for a so-called "*révolution invisible*" to give importance to a much wider variety of topics that Fourastié leaves out of his book categorizing France in 1945 to 1975. Because Mendras shifts the time up,

³⁵ Ibid.

³⁶ Ibid.

³⁷ Mendras *La Seconde Révolution Française*, 14-19.

considerations to what went into France's latent ratification of the ICERD are in a keener focus. Immigrant assimilation was a key issue early in the time period Mendras outlines, and they also were a key factor in the growing economy in France.³⁸ Putting their economic importance behind France's desire to consolidate '*la constellation centrale*' or an idea of a centralized state that takes the economy into its own hands, racism and anti-group rhetoric formed on the right under Jean-Marie Le Pen rose prominently.³⁹ Individualism played a major role in the zeitgeist of French identity at this time, almost to an authoritarian end as policing of diaspora communities grew— individualistic assimilation to French culture was the only way to be truly French.⁴⁰ Group rights, as will be defined later in the chapter, are at odds with this level of assimilationist individualism and this presents itself as a potentially major factor relating to France's 1971 ratification.

To even better understand why France might have taken a longer time to ratify, one must look to domestic and foreign policy of France over the 1960's. In response to the aforementioned social changes, Charles de Gaulle, who was president until 1969 just before France's ratification, began work in this time to minimize France's presence in NATO in an attempt to be militarily and diplomatically independent from both rival superpowers of the era (the United States and the Soviet Union) and to leverage this greater independence to carve out an influential role for France on the international stage, particularly with respect to what was then called third-world nations.⁴¹ It would seem like ratifying an international treaty at the UN would not be in line with

³⁸ Ibid, 73.

³⁹ Ibid, 74.

⁴⁰ Ibid, 414-20

⁴¹ Just like Ross asserts the centrality of inward focus domestically over the late 50's and 60's, Martin asserts that de Gaulle wanted to be an independent power internationally as well. Importantly, Martin still asserts that de Gaulle was involved in international affairs and that he very clearly did not pull from non-military organizations like the UN (though that is not really an option as a permanent member of the security council); Garret Martin, "The 1967

France's foreign policy at the time, but this is not exactly the case. France has a major role in the UN as a permanent member of the Security Council, and it stood in the sub-commission.

Therefore, it is not as easy as just saying that since De Gaulle did not ratify the treaty in office that a treaty of this nature was not in line with his foreign policy at the time. Notably, de Gaulle's successor, president Georges Pompidou, was a prominent Gaullist (someone who follows De Gaulle's politics) and continued much of the domestic modernization commenced by De Gaulle and had very similar foreign policy ideals.⁴² A major difference, however, was Pompidou's explicit desire to reaffirm ties with former colonies in 1971—notably before France had finally ratified the treaty.⁴³ This engagement with the former colonies may have shifted some perspective for the diaspora living within the Hexagon such that there was a more favorable sentiment towards the ICERD.

The support of the French delegation of the ICERD is also a notable piece of evidence of France's ultimate desire to eradicate racial discrimination. France, along with every other voting member in the UN General Assembly, votes in favor of the ICERD. While there was likely social pressure from neighbors and allies to do so, this alone is not a self-sufficient factor in favor of ratification.⁴⁴ While in certain respects, it seemed that France may have been strategically ratifying (ratifying not for sincere purposes, but for external, optics-centric reasons) this treaty, there is nothing to suggest that France opposed the core of the treaty to eliminate

withdrawal from NATO—a cornerstone of de Gaulle's grand strategy?," *Journal of Transatlantic Studies* 9 (2011): 232-243.

⁴² This book is a long, comprehensive look at both mentioned presidents' foreign policy and moves to an argument that while both men had very similar views, they differed in distinct ways as far as outreach and international relationships were concerned; Edward A. Kolodziej, *French international policy under de Gaulle and Pompidou: the politics of grandeur*, (Cornell University Press, 1974).

⁴³ Ibid.

⁴⁴ Simmons, (2009).

racial discrimination.⁴⁵ In fact, media coverage of the treaty was practically nonexistent prior to France's ratification—just that such a treaty might be made. And then once it was ratified, the generalist press and specialized journals mostly just explained what the treaty was and the fact that France had now ratified it. One article from 1971 in *Le Monde* explains that multiple senators opposed the reservations that the French delegation at the UN put on the treaty despite a unanimous vote in the senate.⁴⁶ Most of the opposition to the reservation on individuals being able to make formal complaints regarding their rights under the treaty came from socialists and leftists, and this opposition was not a prominent political voice at this time in France.⁴⁷ Unanimous support for the ICERD may seem unlikely, but major alterations to policy were not required to comply with the treaty at the time. Thus, under Pompidou, the government unanimously ratified the ICERD in spring of 1971, two years after it entered into force.

It is clear that decolonization was influential in both the treaty creation, and in France's late ratification of it. Many states, especially in the West, took many years to eventually ratify this treaty as strong domestic backing is often required for most states' ratification processes. This was seemingly not the case in France, and it seems like the key difference between not ratifying and ratifying the treaty was the transition from de Gaulle to Pompidou and the change of foreign policy therein. One major take away is that even while the treaty pushed the realm of rights to marginalized sub-populations, France eventually ratified the treaty.

⁴⁵ Ibid.

⁴⁶ A. G, "Les sénateurs ratifient la convention contre les discriminations raciales mais critiquent les "réserves" du gouvernement," *Le Monde*, May 20, 1971, https://www.lemonde.fr/archives/article/1971/05/20/les-senateurs-ratifient-la-convention-contre-les-discriminations-raciales-mais-critiquent-les-reserves-du-gouvernement_2475194_1819218.html

⁴⁷ Ibid; Mendras, *La Seconde Révolution Française*.

1.2: The Creation of Group Rights

This section of the chapter will serve as a brief and narrow literature review regarding human rights and international law scholars' contemporary understanding of what this thesis will call "group rights" for the remainder of this thesis. It asserts that "group rights" are those rights that are granted in protection of marginalized populations or specific communities within a state. These may be already existing protected classes/groups or those that are not recognized by the state. The rights in question may also be positive or negative rights: those that grant protections and additional rights or those that take away discriminatory laws respectively. These rights differ from strictly universal rights, because they are rights aimed at allowing everyone to enjoy universal rights; however, they are afforded specifically to marginalized groups in a state that do not currently afford the former same rights as the majority groups. This section will be organized into three guiding questions. First, what is the purpose of group rights? Second, what is their perceived benefit? And finally, how does the ICERD compare to other human rights treaties from the UN? In answering these three questions, it will become clearer how the ICERD pushes the envelope away from strict universalism to a more group-oriented approach to rights giving.

What is the purpose of group rights?

Most scholars avoid the term group rights. Often longer phrases explaining the concept of group rights are used in its stead, or something along the lines of "communal rights", "cultural rights", or "the rights of sub-populations/groups".⁴⁸ This kind of terminology usually lends itself to a universal understanding of rights. From these scholars' point of view, rights are all universal

⁴⁸ Johns, *Politics and International Law*, 305; Reiner, *Transnational lawmaking coalitions*, 27; Simmons, *Mobilizing for Human Rights*.

in nature, and there are just different categories. Johns (2022) asserts that there are three categories of rights: physical integrity rights; political and civil rights; and economic, social, and cultural rights.⁴⁹ While these are strong categories, the first two categories are solely focused on universal rights that assert all individuals ought to be afforded basic physical, civil, and political rights. To continue, economic and social rights can be universal, individual, and group oriented. Take for example social classes and economic classes, if there are group divisions between renters and land owners and a treaty says everyone has a right to property (the Universal Declaration of Human Rights evokes ‘shelter’ as a basic human right), then immediately a group of people, renters, are afforded more rights than they previously had—rights specific to that particular social group.

The most important, and closest to the thesis’ notion of group rights, is Johns’ interpretation of ‘cultural rights.’ She states towards the end of the eighth chapter, “Cultural rights therefore build on numerous individual rights (like expression, assembly, and religion) to protect group identities.”⁵⁰ Here, she is asserting that cultural rights are an extension of individual rights to marginalized communities. It makes sense why they are categorized with economic and social rights, but the way cultural rights are outlined in the Johns chapter asserts that they allow marginalized groups to have the same rights as majority groups within a state.⁵¹ To that end, this classification of rights is not universalistic, but instead distinct. Not everyone is afforded these rights, namely majority classes, because they already enjoy most if not all of the already established universal rights. So, even though the aim is to allow everyone to enjoy

⁴⁹ Johns’ textbook being referenced is an incredibly compact and essential tool for international law, and as such has a lot of value in bringing many sources regarding scholarly conceptions of rights together; Johns, *Politics and International Law*, 266.

⁵⁰ Ibid, 305.

⁵¹ Ibid.

universal rights, the rights granted via the human rights treaties in this category can all be considered as rights pertaining to groups of people be they workers, racial minorities, linguistic minorities, etc. Further, Johns makes it very clear that the purpose of cultural rights is to give marginalized groups the same standing as the majority. This is common throughout the literature; group rights are a means to universality via protections given to marginalized groups.

It is important to make a distinction between protecting marginalized groups and relativism. Relativism is the idea that different rights ought to be afforded to different groups of people, and thus there should be no universal doctrine for rights.⁵² The idea of relativism is contrary to what I assert are the main goals of group rights. First, relativism can lead to broad excuses for large-scale human rights violations. Group rights seek to allow marginalized groups within a state to be protected from discrimination. Second, group rights may look different domestically as far as policy goes, but it is not contrary to basic universal rights—it is a tool to achieve those rights for every member within a state whether they are a minority of the population or not.

What is the perceived practical benefit of group rights?

It is clear what the human rights and international law scholars examined would assert regarding the benefits of provisions of group rights as I have defined them. Group rights stand to benefit the overall goal of equality amongst all people as far as rights are afforded. But they can also lead to more uphill climbs for ratification. Simmons asserts that the more oriented to protection with high obligations a treaty is, the less likely it is to see high commitment to it.⁵³ In this case, treaties aimed at helping marginalized individuals have to limit their scope in order to

⁵² Ibid, 268; Simmons, *Mobilizing for Human Rights*, 10.

⁵³ Simmons, *Mobilizing for Human Rights*, 61.

be broadly approved.⁵⁴ This is evidenced in the sub-commission's removal of explicit religious protections and erasure of obligations related to education during the creation of the ICERD. And even then, multiple states placed reservations on the treaty. Despite these pitfalls, though, group rights expand other rights so as to include marginalized groups such as the right to expression. In this regard, the benefits stand mostly for those who are being protected by said rights.

Sociological and legal scholars and thinkers have asserted multiple very important theories, however, that can be used to examine the importance of group rights. Legal scholar Kimberlé Crenshaw has put forth and expanded on theories of race and intersectionality for years now, painting an understanding of how identities can intersect in such a way that the overlapping nature of them can cause oppression and suppression from multiple angles.⁵⁵ Patricia Hill Collins expands on these ideas that there are various matrixes of domination in which one person can be in the dominant or oppressed group in a series of different identity markers.⁵⁶ In their works, a bottom-up approach to policy is asserted such that those that are the most oppressed should be what policy caters to. In this way, progress moves up and benefits all instead of moving down and hopefully reaching the bottom.

Applying these perspectives to the concept of group rights, the affording of group rights to marginalized groups within a state can be seen as a form of bottom-up rights giving. Focusing on those who are not afforded the same rights as the dominant group allows even those in higher standing to eventually benefit. Rights of the dominant group are not taken away, but rights of the

⁵⁴ Reiner, *Transnational Lawmaking Coalitions*.

⁵⁵ Kimberle Crenshaw, "Mapping the margins: Intersectionality, identity politics, and violence against women of color," *Stan. L. Rev.* 43 (1990): 1241.

⁵⁶ Patricia Hill Collins, "Black feminist thought in the matrix of domination," *Black feminist thought: Knowledge, consciousness, and the politics of empowerment* 138, no. 1990 (1990): 221-238.

subordinate groups are finally afforded to them if not already afforded to them via the domestic policy in place. By writing treaties aimed at protecting marginalized groups, one is generating a legal precedent and, over time, norms surrounding the treatment of minority or minoritized groups within a state.⁵⁷ Normative force is being constructed when group rights are put on the international stage at the same level as civil and political rights. While the ICERD is neither communitarian international law nor non-derogable, it can have compelling effects towards other treaties which will be examined in the next section. In this sense, norms can be built via the precedent-setting nature of treaties surrounding group rights.

How does the ICERD relate to other human rights treaties from the UN?

The ICERD was the first official UN human rights treaty adopted. While the Genocide Convention is not technically recognized as a core human rights treaty as it is overseen directly by the Security Council and has no committee body, the ICERD is without a doubt a core human rights treaty giving its having established an eighteen-member permanent committee and having one of the largest numbers of general recommendations of any other committee body.⁵⁸ While the Universal Declaration of Human Rights (UDHR), 1948, is a core UN document, a direct effort was put into the creation of this treaty that could serve the same ends of that declaration. Twelve full years after the UDHR and the Genocide Convention, the UN decided that the *first* thing that needed to be addressed via an international treaty was racial, cultural, and ethnic discrimination against minorities and marginalized groups. This treaty was groundbreaking. Despite its shortcomings and strategic ratifications, this was a normative step for what many of the later treaties drafted by the Human Rights Committee would follow.

⁵⁷ Johns, *Politics and International Law*, 305-6.

⁵⁸ Reiner, *Transnational Lawmaking Coalitions*, 109-10.

While the twin covenants, the The International Covenant on Civil and Political Rights (ICESCR) and the International Covenant on Social Economic and Political Rights (ICCPR), would be adopted just under a year after the ICERD, they would not enter into force until six years after the ICERD did.⁵⁹ It is hard to link directly the influence of the ICERD with the ICCPR, but the ICESCR would pick up many of the pieces left out by the ICERD when it moved away from religious rights. In her book on the creation of the women's rights treaty, Baldez asserts the importance of a treaty like the ICERD being made and moving a discussion toward women's rights.⁶⁰ It is a key piece of multilateral treaty making that has influenced most of the subsequent treaties on human rights in some way or another. Take for example the committee that every treaty body has created since the ICERD. To oversee each subsequent treaty following the Genocide Convention, a committee has formed following the format of the Committee on the Elimination of Racial Discrimination (CERD). So just as the ICERD has the CERD, the ICCPR and the ICESCR have the CCPR and CESCR respectively. This is true for every multilateral human rights treaty from the UN. The core nine follow this pattern unanimously.⁶¹

It is also true that most multilateral human rights treaties after the ICERD, save for the ICCPR, the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), and the International Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment and Punishment (ICAT), are concerned with a particular

⁵⁹ The International Covenant on Civil and Political Rights and the International Covenant on Social Economic and Political Rights, often referred to as the twin covenants, are the product of a long tension between Soviet states supporting cultural rights and the West focusing on civil and political rights—group protections versus individual liberties; The United Nations.

⁶⁰ Baldez, *Defying Convention*, 56-7.

⁶¹ The core nine human rights treaties: ICERD, ICCPR, ICESCR, Convention on the Elimination of all forms of Discrimination Against Women, Convention Against Torture, Convention on the Rights of the Child, Convention on the Protection of the rights of Migrant Workers and Members of their Families, Convention on the Rights of Persons with Disabilities, Convention for the Protection of All Persons from Enforced Disappearances.

protected group or multiple protected groups. While the ICERD specifically protects racial, ethnic, cultural, and linguistic minorities, the ICEDAW protects women, the ICRC protects children, the ICSECR protects religious minorities and workers, the ICRMW protects migrant workers and their families, and the ICRPD protects people with disabilities. Five of the eight multilateral UN human rights treaties after the ICERD are aimed at making sure specific rights are afforded to marginalized groups in all ratifying states. This trend is directly related to the overall goal of achieving universal human rights, and they seek to achieve it through the protection and enumeration of rights granted to those who are unable to enjoy their universal rights because of their minority or marginalized status in the state they live in.

General recommendations from many treaties use the CERD's general recommendation procedure to assert the idea that each of these treaties are 'living documents.'⁶² This idea is central to things like General Recommendation 35 of the ICERD that asserts that hate speech should be considered a form of discrimination. Though non-binding, general recommendations serve an important role in asserting new norms in treaty bodies, and the ICERD pioneered this approach to further clarifying recommendations that treaties like the ICEDAW later followed.⁶³ So, while the ICERD was the first treaty of its kind, it sparked a trend of what would center in the majority of subsequent treaties in protecting and upholding the rights of marginalized groups within states.

⁶² Keane & Waughray, *Fifty Years of the ICERD*, 21-2.

⁶³ *Ibid.*

1.3: Close Analysis of the ICERD and How it Centers Group Rights

The goal of this section is to offer a close reading of the text of the ICERD to ascertain the central obligations, and the centering of group rights. As such, there are three central questions. First, what are the key obligations that France (along with every member state, of course) must comply with— and what is the obligation that it has placed a reservation on? Second, how do the outlined obligations lead to a centering of group rights? Through answering these questions, it becomes clear that this treaty is not just rooted in universalism, but is distinct in its protectionist tendencies towards marginalized people. This treaty started as a way to protect religious minorities, and though it evolved from that, it still seeks to make sure everyone enjoys the same rights regardless of background or identity.

What are the key obligations under the ICERD?

The key obligations for the elimination of racial discrimination are all found in the first part: articles 1-7. The second part of the treaty, articles 8-16, are centered around the creation of the CERD and what role it has in overseeing and analyzing compliance with the ICERD. Part three, articles 17-25, are the procedures for signing and ratifying the treaty, placing reservations on the treaty, and other stipulations for what is done with the treaty after it is opened for signatures. So, the key obligations of the treaty can be found in the first seven articles. It is important to note that the preamble, while expressing multiple elements not ultimately found in the substantive articles, is non-binding but can be looked to for the intent of the treaty much like *les travaux préparatoires* can be viewed. Stating, “Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,” the preamble is explicitly and committedly antiracist. However, it will not be

considered when outlining the core obligations of the treaty as it lacks obligatory force; much of the anti-racist energy of the preamble is diluted in the core provisions.

It is necessary to look through each article in the first seven, but it will be done in brief. Article 1 gives the definition of ‘racial discrimination’ as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” It proceeds, in article 1(4), with the assertion that measures taken to uplift certain racial groups in a state cannot lead to separate, and as such, unequal rights between racial or ethnic groups.⁶⁴ This is incredibly important because it explains that a state can, and potentially should, seek to give expanded rights to a specific group so that they can enjoy the same rights as other groups within the state.

Article 2 begins the process of outlining how states must ensure the eradication of racial discrimination. The obligations outlined in article 2 are vague, but are the basis for the anti-discrimination obligations. In 2(1a), it asserts that the state and all forms of governance under the national shall be obliged to undertake anti-discriminatory measures. No level of government is excluded. Further, 2(1b) explains that the state shall “not sponsor, defend or support... any person or organization” that engages in racial discrimination. This prohibition is continued in 2(1d) in the form of a positive form of intervention. It specifically says that if legislation restricting organizations or persons engaging in/guilty of discrimination is necessary, then that legislation should be completed promptly. Another positive clause is 2(1e), which seeks to

⁶⁴ The notation number(number) denotes article(sub-clause). So, article 1(4) refers to the fourth subclause of the first article.

pursue integration via potentially positive legislation. These clauses contrast the negative obligation in 2(1c) that stipulates that all legislation in every level of government should be removed without hesitation if it constitutes discrimination against any racial group. Finally, article 2(2) asserts that in consideration of social and economic factors, a state shall undertake “special and concrete measures” to ensure the advancement of marginalized groups. For similar reasons that article 1(4) is important, this clause gives a lot of weight to group rights despite its vagueness.

Article 3 simply condemns apartheid right out. The simple nature of this obligation is assertive and conclusive. Problematically, states that practiced apartheid such as South Africa openly did not sign or ratify this treaty until they did not practice apartheid anymore.⁶⁵ Article 4 is a very specific and strong obligation. As such, this is the obligation France entered an important reservation into. This will be discussed later, but this article specifically obligates states to make positive legislation for the restriction of any propaganda used to disseminate hate and promote rhetoric of superiority. The common understanding of this article is that it restricts or outright condemns hate speech—such that general recommendation 35 was used to clarify it to be taken that way.⁶⁶ The common rationale for states that entered reservations is that this should not restrict free speech. In its first sub clause, article 4(a) articulates that member states shall make it criminally punishable to disseminate notions of racial superiority. Continued in 4(b) is the explicit banning and disbanding of any group or organization that promotes racial discrimination, and 4(c) extends this notion to all levels of government. This is decidedly more

⁶⁵ The United Nations Treaty Signature map.

⁶⁶ Keane & Waughray, *Fifty Years of the ICERD*, 22-4.

obligation-heavy than most of the other articles in the first seven and as such has the second most reservations placed on it of the ICERD.

Article 5 is another mostly negative article that stipulates that persons shall not be discriminated against by the state with respect to a number of specific rights. Notable rights enumerated are 5(d-vii), which protects the right to freedom of religion; 5(d-viii), which protects the freedom of expression; and 5(d-ix), which protects the freedom of association. These are incredibly important sub-clauses to keep in mind in the final chapter of this paper because France has no reservations taken on them. As such, France must comply with these three clauses such that people in France are able to enjoy these freedoms without distinction of race, culture, or ethnic identity. The article continues to assert that no discrimination shall be tolerated regardless of public or private enterprise.

Article 6 affirms that all state parties shall offer to those in their jurisdiction access to fair and adequate tribunals in the case that they are not enjoying rights enumerated in the convention. This is an important obligation because states must then integrate public legal processes with the treaty in order to actively protect those in their jurisdictions. Article 7 closes with the assertion that education must promote the tolerance, acceptance, and friendship between all groups and that measures to make this happen should be taken immediately.

How do the treaty obligations constitute group rights?

Many categories of rights overlap in this treaty. There are civil, political, physical, cultural, economic, and social rights enumerated or touched upon throughout the ICERD. One important factor that ties all of these rights together is who they are being enumerated for. This treaty is considered a ‘single right’ treaty by Reiner, but this does not deny the ability for this

treaty to be looked at as being for group rights.⁶⁷ Centering itself exclusively on non-discrimination as a so-called “single-right” is a way of granting many corollary rights to marginalized people; they just happen to be rights that are usually afforded already to the majority class but denied to minorities on the basis of racial discrimination and similar biases.

Articles 2, 4, and 5 are key to the group nature of this treaty. It is true that the positive obligations are not positive rights for marginalized people, but they are indirectly positive in that they are aimed only at the benefit of those oppressed groups. Specifically, article 2 makes certain that there is no group, state or non-state, that has the right to discriminate in accordance with the definition given in 1(1). Article 4 obligates states to undertake dramatic measures in ensuring that no propaganda be disseminated at the expense of any racial, cultural, or ethnic group. These positive measures are such that groups can be dissolved and face criminal consequences by the state if they are racially discriminatory. Again, this is not directly a right granted to racial minorities, but the obligation is going to mainly benefit racial minorities in a member state. However, article 5 specifically enumerates all the rights afforded to individuals regardless of race. All of the rights enumerated are those found in the Universal Declaration of Human Rights and, as such, are those that every human ought to be afforded. These are rights that are being protected by the treaty so that marginalized groups in states can enjoy them without persecution from anyone on the basis of 1(1)’s definition. This treaty is centered around group rights through the propping up of marginalized groups that are not afforded the same rights, and is in line with the definition of group rights outlined at the start of the chapter.

⁶⁷ Reiner, *Transnational Lawmaking Coalitions*, 97.

Conclusion

As seen in the first section, the creation of the treaty showed the universalist roots of the ICERD as well as of who fought to expand it and who sought to limit it. It demonstrated France's role in its creation to explain and contextualize its eventual commitment to the convention in 1971. France's ratification, then, serves as evidence of the universalist nature of the treaty. This is demonstrated by its influence in the creation of the treaty, and the idea that France would likely have been less convinced to ratify a treaty that strongly promoted the formulation of group identity within the nation. The chapter also focused on France's historical context during the drafting and ratification of the ICERD so that its tardiness to ratify the treaty. This chapter continued with an outline of how group rights are defined and how they are conceived of in international human rights. It asserted a distinct definition of group rights that guides the final section where the chapter closely analyzes the ICERD to understand its key obligations and how they constitute group rights. Because group rights are centered in the final draft of the treaty, it is clear that it pushed the envelope of group rights, and this is also seen in the treaties that the ICERD influenced. It is clear that multiple western states, including France, intended for this treaty to be solely universalistic and negative, but it is also clear through obligations like article 4 that the centering and protection of group rights was not lost on the key drafters.

The future of this treaty lies in what states are willing to accept as new optional protocol is developed in line with the treaty's intent for dismantling all forms of racial discrimination. How the ICERD positions group rights are an essential step in the process of examining France's compliance of it. In the next chapter, a distinct form of nationalistic universalism, that the chapter will define as French universalism, will be argued to have a distinct and unique context

in French thought and national identity. Already, France's basic views on universalism have been viewed in relation to its push back against more expansive treaty provision in the ICERD, so understanding group rights as posited in the ICERD and France's specific tradition of universalism is important to point out why France may be predisposed to incomplete compliance of the treaty (the focus of the third chapter of the thesis) despite universalistic roots and the rather low bar for compliance.

Chapter 2: A Distinct French Universalist Thought

As a product of years of enlightenment influence and an instrumentalization globally via the United Nations and other transnational organizations, universalism is a rather ambiguous yet prevailing ideology in the guaranteeing of human rights. The broader definition of universalism, underpins most colloquial uses of the term, is that all individuals regardless of individual identity are and ought to be seen as human with certain universal characteristics. Expanding on this idea, human rights scholars and supporters use universalism to argue that all humans thus deserve the same fundamental, universal human rights. In contrast, cultural relativism moved to denounce the idea of universalism in the furthering of human rights globally. Relativism argues that rights should be afforded on the basis of what a given specific culture or identity deems worthy of rights. Relativism is thus distinct from group rights, which are defined as those rights that are afforded to marginalized groups within a state with the operational goal of securing for those groups the same access to universal human rights that the dominant or privileged class enjoys. Using the UN's Universal Declaration of Human Rights (UDHR) as a framework, universalism thus is a moralistic claim stating that all humans just on the principle of being human deserve basic universal rights. So, the nine core human rights treaties of the UN act as attempts to reach the universal goals of the UDHR even if it requires the uplifting of marginalized and minoritized groups.

The purpose of this chapter, although rooted in the broader internationally prevailing understanding of universalism, is to demonstrate that in France there is a distinct brand of what will be termed as 'French Universalism'. This French Universalism will be defined as an exclusive and abstract form of universalism constructed to afford a broad range of rights to

emancipated and civically equal individuals and to protect a post-revolutionary and republican construct of French national identity expressly at the expense of group identification, which is in direct contrast to the former. This definition, thus, requires a brief discussion of nationalism and a strong operational definition. Nationalism will be defined as a strong identification towards a state, such that belonging to that state is a basic part of self-identification. Later, this chapter will discuss in depth the origins of nationalism and how it relates to French Universalism. In short, national identity is a key factor in the generation of a distinct French Universalism, and nationalism serves as a conduit of disseminating national myths that strengthen this nationalistic underpinning.

Nationalism and universalism are often at odds as a result of the nation state's desire for sovereignty. A state may be in accordance with the international community's mobilization for human rights, but it is up to that state to buy into international organizations that build multilateral human rights treaties. Universalism is a compelling and even noble ideal, but in itself is not universally bought into. Nationalism can often have populist, nativist, and/or ethnocentric undertones, that can further alienate a state from the broader international community. Nationalism, however, is not always at odds with universalism; though, is more often than not at odds with group rights, especially if the groups that would be protected are not the majority class of the state. A state can buy into the idea that all individuals in it deserve human rights, but it can also serve as a filter for what rights it guarantees or what groups it wants to exclude. Many states have populist movements that promote absolute sovereignty and isolationism, and although that is not intrinsically linked with nationalism, right-wing forms of populism often lean on consolidation of rights for those that are native born to the nation and the inhibition of others

being granted the same rights in equal measure.⁶⁸ National identity being tied to whom one perceives ought to have rights in a national community can lead to a conditional and exclusionary understanding of universalism— theoretically, every member of a state can have universal rights given they assimilate fully into the historical, political, and cultural norms of the national identity—norms that often characterized as themselves grounded in (or aspiring to) universalism in France's case.

This chapter will center three documents that root the idea of French Universalism firmly in the creation of the *Republique* and demonstrate the importance these texts have had in discourse both historical and contemporary. It will begin with a discussion and analysis of the *Déclaration des Droits du l'Homme et du Citoyen*, in order to explain the fundamental nature of universalism in France. It will continue with a similar discussion of *La Loi le Chapelier* which will be positioned as an anti-group identification law made in June 1791 months before the first constitution. It will allow a discussion of why group rights are at odds with the idea of French Universalism. The next core text discussed will be *Qu'est-ce que c'est une Nation?* by Ernest Renan (1882) to explain a movement towards universalistic nationalism in a French tertio-republican context and how nationalism and colonialism are very linked at the time of this text's writing. Finally, the chapter will move to more contemporary texts that build a stronger context for the conflicting understandings of what constitutes French national identity, and what other facets of French identity play into the idea of French Universalism. Through these three subsections, this chapter will demonstrate that despite being a foundational state in the observance of universal human rights, France blends universalism and nationalism such that a

⁶⁸ Ulf Hedetoft, *Paradoxes of populism: Troubles of the West and nationalism's Second coming*, Anthem Press, 2020.

specific nationalistic form of universalism, French Universalism, is created which conflicts with group identification and rights.

2.1 Universalism in French terms: « la Déclaration des Droits de l'Homme et du Citoyen »

Historical Context of the DDHC

Outlined and drafted by Marquis de Lafayette, and eventually finalized and adopted as a preliminary demand of the burgeoning revolution with the input of Abbé Emmanuel, Joseph Sieyès, and Honoré Mirabeau during the summer of 1789 in the famous tennis court of Versailles, the *Déclaration des Droits de l'Homme et du Citoyen* (DDHC) enumerated seventeen essential and inalienable rights of all French citizens (though there is an uncertainty whether the intention extended to women and other marginalized groups).⁶⁹ Founded in enlightenment ideals, especially concepts established by Rousseau like *la volonté générale*, this Declaration became one of the first of its kind adopted. Even before the new American Constitution and Bill of Rights were codified, these seventeen articles were signed and promulgated by King Louis XVI on October 5, 1789.⁷⁰ Adopted by members of the third estate and allied liberals of the clergy and nobility, this document was fundamentally positioned as a way to ensure power be given to the people of France and to redistribute the incredibly consolidated power of the monarchy. Article 3 specifically says that sovereignty lies with the people of the nation, placing an implicit emphasis on the desire to curtail all sovereign power of the monarchy. Article 6 continues by addressing

⁶⁹ Another declaration, using the exact format as the DDHC was written two years later enumerating the rights of women. This declaration gave evidence that the DDHC, despite its royal usage of the word 'homme' still divisively excluded women; Olympe de Gouges, "La Déclaration des Droits de la Femme et de la Citoyenne," 1791.

⁷⁰ Guy Putfin, "La déclaration des droits de l'Homme et du citoyen: Recensement et variantes des textes (août 1789-septembre 1791)," In *Annales historiques de la Révolution française*, pp. 180-200, Société des Etudes Robespierriistes, 1978.

the idea of law coming from *la volonté Générale*, explicitly rooting the document in Rousseau's *Le Contrat Social*. These are rights specifically granted to all, regardless of hierarchical standing in the pre-revolutionary French social structure.

Part of the intention behind this Declaration was a calculated play to try to remove pressure from growing revolutionary sentiment. Made soon after the taking of Bastille, the DDHC took pressure off of the second and first estates by attempting to grant rights to people without necessarily seeking to take all power away from or completely dismantle the monarchy. Lafayette was a major player in the early stages of the revolution, but was also often a liaison between the monarchy and the third estate, and this moderating role is exemplified in his attempt to speak to the crowd of women who marched upon Versailles in 1791.⁷¹ Despite being unambiguously in support of lessened powers of the monarchy, he acted somewhat as a reform-minded royalist. This angle is useful when considering the desired impact of this declaration. The DDHC demands the radical granting of multiple legal, political, social, and economic rights, including that of property, to all French people (explicitly men and implicitly everyone), using non-discriminatory and universal language. “Les hommes naissent et demeurent libres et égaux en droits. Les distinctions sociales ne peuvent être fondées que sur l'utilité commune.”⁷² This is the first article of the DDHC, which demonstrates not only a sense of universalism but also that of a common French national identity defined in terms of civic individuals—citizens of the republic. At its core, this document is rooted in the idea of universal rights, and this can be seen in the preamble's *l'Être Suprême*, which was a common way of explaining why humans had intrinsic rights, that they were ordained by morality and a higher power.

⁷¹ Simon Schama, *Citizens: A chronicle of the French Revolution*, (Penguin UK, 2004).

⁷² *La Déclaration des Droits de l'Homme et du Citoyen*, National Assembly of 1789, 26 August 1789.

Under Robespierre, *la République* readopted the DDHC and soon after abolished slavery. These two actions happening close together show a more intentional and universal desire for the declaration, though the rule of Robespierre, namely the Terror, had coercive and authoritarian weight behind it.⁷³ To make a famous ornate and iconographic tableau of the declaration while also executing political rivals using the very rights granted to them in the DDHC, like André Chenier after having written a poem lambasting Marat and praising Charlotte Corday for assassinating him, is thinly veiled irony at best and coercive use of a key revolutionary text at worst. In a way, the original intentions of the DDHC were suppressed by the Terror. The abolition of slavery was a marked improvement of human rights in France and its colonies, but under an authoritarian grip, the rights enumerated in this document were not much more than words on a page. And while former slaves suddenly had rights, women still were repressed in the revolution. When looking into the *Marche des Femmes* in October of 1789, weight is placed onto how Lafayette got the crowd to cheer “*Vive le roi*” and “*Vive la reine*” rather than the fact that this was one of the first acts of combative revolution directly against the king and queen and led by women of the third estate.⁷⁴

In the context of the first four years of the DDHC, the official reading of the original document was already very individualistic and nationalistic, and it lacked any recognition of group rights. By the Terror, group affiliation antithetical to the revolution became deadly. Thus, the context in which the DDHC first became a foundational text of the French nation was quite contradictory. Nevertheless, with enlightenment ideals and intentions of affording more rights to the people of France with a normative desire to push the ideals outward to all of mankind, the

⁷³ Lynn Hunt and Jack R. Censer. *The French Revolution and Napoleon: Crucible of the Modern World*. Bloomsbury Publishing, 2022.

⁷⁴ Schama, *Citizens*, 464-8.

DDHC is both a canonical expression of liberal-minded universalism and a momentous milestone for rights giving. Briefly, there are 17 articles that enumerate various political and civil rights and articles 1-12 specifically enumerate rights to individual citizens. Article 1 says that all men are born equal, and social distinctions can only exist for common good. Article 2 guarantees the right to liberty, property, safety, and protection from oppression by the state. Article 3 is the first that centers the nation, such that sovereignty is in the hands of all people, not one institution or individual. Article 4 grants every individual to do as they please as long as it does no harm to any other individuals. Article 5 allows only laws that limit harm to be passed. Article 6 alludes to *la volonté générale* that is the basis for all laws. Article 7 protects citizens from illegitimate arrestation, but still says that resistance to a legitimate arrest makes one culpable. Article 8 says that an individual cannot be tried for having broken a law that did not exist at the time of committing the crime. Article 9 assumes individuals innocent until proven guilty. Article 10 grants free speech and religious expression. Article 11 extends article 10 to include the freedom of press as well. Article 12 states that any force (police) is only for the betterment of all, not any particular institution. The DDHC's interpretation was quite restrictive (an exclusive focus on individuals rather than groups) and nationalistic (a foundational component of national identity) from the start even before being twisted into a coercive and strategic tool for repressing rights in the name of national unity during the Terror. With the context of the earliest interpretations of the document in mind, understanding how the document was used becomes an important next step in demonstrating the universalistic roots of French perceptions on human rights.

The DDHC and French Human Rights Discourse

Understanding how the DDHC has been used across the history of France's human rights discourse is important in underpinning just how central universalism is to France's identity as a

nation. In a way, the DDHC has acted as a catalyst for even more universal interpretations of rights to gain weight across the centuries after its conception; though, the first example of this came just two years after the DDHC's adoption when Olympe de Gouges wrote *La Déclaration des Droites de la Femme et de la Citoyenne* (DDFC).⁷⁵ Where the DDHC can be seen as a limited document, linguistically only including men even if it was intentionally *homme* in a 'human' sense as opposed to gender, the DDFC sought to do a fully bottom-up approach to rights giving. Structured in much the same way, though with a longer preamble and an argumentative essay prefacing the need for such a declaration, the DDFC takes all of the same articles and broadens the universality to include women and not just men. An abolitionist and avid women's rights activist, Gouges writes the DDFC to take on a truer sense of universalism that is not encapsulated in either version (1789 or 1793) of the DDHC.⁷⁶ In effect, Gouges used the framework of the DDHC to increase the universal reach in an attempt to center a more inclusive (and less toxically masculine) form of universalism. Her focus on women's human rights, writings, and association with the Girondins would eventually lead to her execution in November of 1793, before slavery was abolished and without the furthering of human rights for women, but the importance of the DDFC was felt afterwards.⁷⁷

This feminist cooptation of the DDHC is very important when considering that this document was eventually a major piece of inspiration for the UN Universal Declaration of Human Rights, a document that follows the DDFC's suit in using inclusive language to describe who is receiving rights as a result of the declaration.⁷⁸ Gouges had an impact on multiple key

⁷⁵ Gouges, "La Déclaration des Droits de la Femme et de la Citoyenne".

⁷⁶ Erica Harth, *Cartesian women: Versions and subversions of rational discourse in the old regime*, (Cornell University Press, 1992).

⁷⁷ Sophie Mousset, *Women's rights and the French Revolution: a biography of Olympe de Gouges*, (Routledge, 2017).

⁷⁸ Universal Declaration of Human Rights, New York, New York, United States: United Nations, 1945.

women figures, and her DDHC was highly reprinted after her passing, but this was not a long lasting impact and the dominant masculine culture (especially during the Napoleonic backsliding racial and feminist progress) eradicated the sense of universalism that she was proposing.⁷⁹ She may have coopted the DDHC in order to extend a more inclusive universalism, but whatever progress she made was short lived. Human rights evolved over the centuries after her death, and after the fall of Nazi Germany and the creation of the United Nations, a new breath of life was sparked into a more global understanding of universalism.

The “Universal Declaration of Human Rights” (UDHR) is a foundational human rights declaration that has an international reach. Despite being non-binding, the overall goal of the document is to afford basic human rights to all people internationally such that all people could enjoy the same rights regardless of state they live in. It is incredibly precise in its linguistic inclusion of anyone regardless of race, ‘sex’, or other form of identity. In this way, the influence of early feminism, including that of Gouges, can be seen in what is truly a universal declaration of rights. It declares many of the same rights that the DDHC declares while also expanding into rights like the access to food. It also does not focus much on political rights as the DDHC does, but instead focuses on personal freedoms such as being free from servitude and slavery. In this way, the UDHR is much more focused on individual rights, where the DDHC has a certain nationalistic undertone with articles like the third one saying, “*Le principe de toute Souveraineté réside essentiellement dans la Nation. Nul corps, nul individu ne peut exercer d'autorité qui n'en émane expressément.*”⁸⁰ Although this is an article detailing that power rests in the hands of the people, of the nation, it still implicitly constrains the parameters to France and not much further.

⁷⁹ Hunt and Censer, *The French Revolution and Napoleon*.

⁸⁰ DDHC, article 3.

The UDHR, using a similar framework to that of the DDHC, is a clear extension of enlightenment era human rights and finds itself directly linked to Frenchman René Cassin (a central actor in the creation of the UN Universal Declaration of Human Rights), who was major advocate for human rights and achieved a Nobel Peace prize for his work therein.⁸¹ A lineage of French human rights goes directly back to the DDHC and its wide-reaching effects today.

In contemporary French discourse, the DDHC is still a relevant text. Not only is it a major mark of pride for France, some even coining the name *Le Patrie des Droits de L'Homme* to describe the country, but most of the rights have been made jurisprudence by the 1946 and later 1958 constitutions of France, both referencing it in their preambles.⁸² By effectively codifying the DDHC, this demonstrates that France continues to focus on and stand behind the DDHC as a fundamental French document. It is specifically referencing the 1789 version of the declaration as opposed to the Robespierre backed 1793 version that made certain limiting edits.⁸³ Even the official French website version is the 1789 version and the declaration itself is placed in essential documents with the 1958 constitution. The DDHC has become a specific and important piece of French history that carries weight still. It is a foundational document to the idea of the republic, and it remains significant in the French interpretation of human rights. Since 1971 it has been considered the highest norm of French constitutional law and jurisprudence and can be referenced by the *Conseil Constitutionnel* to declare laws unconstitutional. The DDHC has even been used legalistically to defend *la Charte de l'Environnement* of 2004, giving it a noteworthy

⁸¹ Marc Agi, *René Cassin (1887-1976), Prix Nobel de la Paix: père de la Déclaration universelle des droits de l'homme*, (FeniXX, 1997).

⁸² French Constitution, Paris, France: Parliament of France, 1946; French Constitution, Paris, France: Parliament of France, 1958.

⁸³ DDHC, 1789; DDHC 1793

and contemporary presence that firmly places the DDHC as a fundamental piece of French jurisprudence.⁸⁴

How the DDHC Builds French Universalism

In the previous subsection, the continued relevance of the DDHC was explored. While not all that prominent across the 1800's, the DDHC has become a staple of French jurisprudence and an essential text to France's understanding of human rights. Harkening back to the definition posited for French Universalism, there are two main ways in which this document fosters this concept. First, differentiating between the individual and the nation develops a certain one or all dichotomy that leaves little room for group identification. This directly relates to the idea that the individual is afforded rights and the concept of national sovereignty is protected via the DDHC. Looking at article 6, the concept of '*volonté générale*' is a consensus-based model that is predisposed to limiting the voice of marginalized groups.⁸⁵ At the time of its conception, women, people of color in France, Jewish people until 1791, former slaves in colonies, slaves in colonies, and even non-property owning men were all disenfranchised to various degrees—these groups in France did not enjoy the same rights as what the DDHC afforded to 'all men' and 'all citizens'.⁸⁶ While all of these groups were eventually given full and equal rights under law and the 1958 constitution invoked the DDHC in inclusive (i.e., truly universalistic) terms, rights are still deeply rooted in either the nation or in the individual.

Second, the DDHC became a framework document for the further expansion of universal human rights. This, despite being less direct than the actual text, is an important point of French

⁸⁴ Christophe Gueugneau, « Le Conseil constitutionnel fait primer la défense de l'environnement sur la liberté d'entreprendre », *Mediapart*, January 31, 2020, <https://www.mediapart.fr/journal/france/310120/le-conseil-constitutionnel-fait-primer-la-defense-de-l-environnement-sur-la-liberte-d-entreprendre>.

⁸⁵ DDHC, 1789

⁸⁶ Hunt and Censer, *The Revolution and Napoleon*.

pride. In a way, the international importance of the DDHC, from influencing the US Bill of Rights to being a key document in the creation of the UDHR to acting as a framework for the European Union Charter of Human Rights, has ultimately strengthened a sense of French importance in the extension of human rights. Becoming *'la patrie des droits de l'homme'* is not a title that just appears, it is due to a long-standing tradition of the DDHC influencing greater expansion of human rights. While the next chapter will explore whether France actually complies with certain human rights, this burgeoning of national pride centering on self-proclaimed French primacy in the domain of human rights in turn reinforces French universalism. It can center individual human rights in such a way that nationalistic universalism is reinforced. French universalism, then, gives rights indiscriminately to all individuals in the nation yet precludes rights to groups, potentially in such a way that on backslides the individual universal rights understood to be afforded to member of the groups in question. This chapter will hone in on that point later with reference to discussions on *laïcité* and its effects on the rights of French Muslims.

The DDHC not only has historical roots in the expansion of universalism, but has influenced in large part multiple universalistic declarations and charters as well as being codified as a core part of French human rights jurisprudence. Its influence is still felt today, and it is an important document when considering the formulation of French universalism. Where the more global understanding of universalism has expanded rights, French universalism has a sense of staying rooted in its foundations of individualistic and nationalistic universalism. The centrality of the DDHC, a document written more than 230 years ago, boldly articulates this point.

2.2 Anti-group Organization Under Universalism: *La Loi le Chapelier*

Another revolutionary-era document, *la loi Le Chapelier*, is a key text underpinning French universalism. Although much less pervasive than the DDHC, this law has popped in and out of conversations surrounding everything from economic and corporate rights to special interest politics, multiculturalism, and communitarian identities; and furthers the understanding of the dualism of the individual and the nation without room for anything in between. Written by the General Assembly in 1791 as a follow up to the Allarde decree issued in the same year, this law was first and foremost implemented as a way to limit the ability of the nobility to consolidate economic power despite having lost their privileges two years prior to the law's conception.⁸⁷ In addition, it dismantled the ancient guild system paving the way to a more open marketplace in which one could choose the profession of one's choice.⁸⁸ The text itself makes strong reference to the DDHC (esp. the all-important first article of the DDHC) in its fourth article and states in its first, "L'anéantissement de toutes espèces de corporations des citoyens du même état ou profession étant une des bases fondamentales de la constitution française, il est défendu de les rétablir de fait, sous quelque prétexte et quelque forme que ce soit."⁸⁹ This quote asserts that any group organization under the same profession to get ahead is strictly prohibited, and in article 4 further explains that corporations of this type are not only contrary to the constitution, but of the DDHC as well. The law is limiting group affiliation for the purposes of individual rights—one *ébéniste* can make a cabinet and sell it, but a group of *ébénistes* cannot form a corporation and hold the exclusive right to sell cabinets under this law. In effect, this law made it impossible to

⁸⁷ Edmond Soreau, "La loi le Chapelier," In *Annales historiques de la Révolution française*, pp. 287-314, Société des Etudes Robespierriennes, 1931, 200.

⁸⁸ Ibid.

⁸⁹ Issac Rene Le Chapelier, *La Loi le Chapelier*, National Assembly of 1791, June 14, 1791.

form trade unions, corporations, and commercial coalitions under the justification of the protection of individual liberty.

The law's historical context is similar to that surrounding the DDHC with continual expanded limits being placed on the first and second estate (not to mention the more prominent members of the third) by the new constitutional monarchy during the ongoing French Revolution.⁹⁰ This law was one of many documents that sought to limit the longstanding of the first (clergy) and second (nobility) estate, placing most power into the hands of the third estate (those who worked for a living esp. the rising bourgeoisie). The broad goal was to bring down the *Ancien Regime* in its entirety: the monarchy, feudalism, and all its trappings. The anti-feudal tendencies of the revolution are very present in the text; it centers on the need of individual private enterprise as opposed to enterprise controlled by corporate interests, guilds, and inherited privileges. In being anti-bourgeois, it also argues for a more open capitalistic system run on proletarian labor and private enterprise. This law very obviously came long before the current stage of capitalism, so oversights surrounding companies gaining a lot of traction and growing did not exist. However, it would seem that any coalition of individuals producing the same product was forbade under *le Chapelier*, so it is possible that if this law had remained a bedrock reference of French jurisprudence, it could have limited effectively the growth of monopolies.⁹¹ The call for private enterprise being connected to the DDHC is also very important when considering the role this played on marginalized groups. Women and minorities that would have benefited from making smaller groups to broaden their material conditions were banned from

⁹⁰ Hunt and Censer, *The Revolution and Napoleon*; Soreau, *La Loi le Chapelier*.

⁹¹ *Le Chapelier, La Loi le Chapelier*.

doing so. Even if strictly economic in nature, there are major social consequences that emerge from legislation like this.

How Did and Does la Loi Le Chapelier Influence France

A law like this may be more applicable in a more industrial capitalist society that provides avenues for large scale monopolies and massive corporations to form, rather than a society that remained largely agrarian until the early 20th century. *Le Chapelier* was in effect until two laws that abolished the crime of ‘coalition’ in 1864, a law that legalized forming unions in 1884, and finally a 1901 law on associations that put the final nail in the coffin of *le Chapelier*.⁹² Something worth noting is the fact that France industrialized much later than other European nations, specifically England, so the eventual backpedaling on policy made via the law as a result of burgeoning industrialism makes sense.⁹³ The law effectively and severely restricted all group formation in France for decades to come and more broadly influenced understandings of *particularisme* and *corporatisme* in the country, in some ways reshaping understandings of the individual. Political particularism is the idea that catering to particular groups allows upward mobility for politicians as opposed to making large national plans that are aimed at the populace at large.⁹⁴ This law takes particularism and equates it directly to corporatism, an economic idea that says that society ought to be organized by corporate groups as an alternative to socialism and capitalism, by banning any kind of corporate forming.⁹⁵ Without specific group organization, this makes it so there is only the individual and the nation. France through this law is making it

⁹² 1791: la loi Le Chapelier interdit les corporations, *institutions professionnelles*, last modified December 15, 2020, <https://institutions-professionnelles.fr/reperes/documents/119-1791-la-loi-le-chapelier-interdit-les-corporations>.

⁹³ Pierre Rosanvallon, *L'État en France de 1789 à nos jours*, Média Diffusion, 2015.

⁹⁴ Alejandro Gaviria, Ugo Panizza, Jessica Seddon, and Ernesto Stein. "Political institutions and growth collapses." *Revista Latinoamericana de Desarrollo Económico* 2 (2004): 11-32.

⁹⁵ Oscar Molina and Martin Rhodes, "Corporatism: The past, present, and future of a concept," *Annual review of political science* 5, no. 1 (2002): 305-331.

so that particularism is not even an option politically and making it so corporatism could not even gain footing. This concept was perhaps put best by the law's namesake, Isaac René Guy le Chapelier, when defending it in front of the National Assembly when he said, "... *il n'y a plus que l'intérêt particulier de chaque individu et l'intérêt général. Il n'est permis à personne d'inspirer aux citoyens un intérêt intermédiaire...*"⁹⁶ While his assertion here goes further than the bounds of the law, Le Chapelier wants it to be known that he stands against intermediate (in other words group) identification, not just economically but also socially. This clarification of the law's broader vision of society and public life are extremely iconic, canonical, and authoritative. It is exemplary of French republican society in general.

The *Chapelier* across the 19th century, as described by historian Pierre Rosanvallon, "est progressivement perçu comme la cause principale de tous les problèmes [économiques]."⁹⁷ He explains that many issues that arise are rooted in a sense of hyper individualism that do not allow France to industrialize. In fact, as a result of this law, much of France directly opposed industry, especially those with broad political and economic power.⁹⁸ Taking into account the revolutionary core of this law, it still lent itself to both empires and the monarchy—it kept at bay the ability for strong group opposition or newer forms corporate economic practices and collective organization (e.g., trade/labor unions) that kept France from progressing economically. By leaning into this anti group and strong central power, particularism and corporatism had no merit in France. Without any way to organize even economically until just before the birth of the third Republic, strong centralized power that was nationalistically consolidated by both empires controlled a lot of the state's economic development in the implementation of capitalistic

⁹⁶ Isaac René Guy Le Chapelier, "Rapport par M. Le Chapelier sur les assemblées de citoyens du même état, lors de la séance du 14 juin 1791," *Archives Parlementaires de la Révolution Française* 27, no. 1 (1887): 210.

⁹⁷ Rosanvallon, *L'État en France de 1789 à nos jours*, 210.

⁹⁸ *Ibid*, 219.

systems gaining pertinence abroad.⁹⁹ However, with the passing of the law that allowed the formulation of ‘*coalitions*’ and then the ability to form labor unions effectively took all legal power away from *le Chapelier*.

Despite the end of the law as jurisprudence, its influence can be seen in other facets of French society. Discussions of *laïcité* have similar dichotomous underpinnings.¹⁰⁰ The intention is to further a concrete French identity that separates the private and public sphere furthering the staple of individualism over group identification in the state.¹⁰¹ Contemporary France has been having national debates on multiculturalism for decades with little consensus on how to move forward in this regard. Embedded (both legally and socially) into the mainstream of France, *laïcité* can complicate conceptions of multiculturalism due to the group identification central to multiculturalism. *Le Chapelier* directly opposes group affiliation, which lends itself well to underpinning the overall goals of *laïcité*. Further, *le Chapelier* would assert not just that public manifestation of a religious identity would be seen as a potentially dangerous intermediate identification (potentially inserting itself between the individual and the nation) but how *laïcité* intends to emancipate and empower the individual and the nation. Thus, *le Chapelier* directly opposes the building of group affiliation argued for by multiculturalism. Further, multiculturalism is not necessarily directly opposed to France’s commitment to the individual, especially in the more traditionally liberal understanding of multiculturalism in France. Even in a context that is meant to serve more multicultural ends, François Mitterrand even centered exoticism more than multiculturalism in the famous bicentennial of the French Revolution— it

⁹⁹ Ibid.

¹⁰⁰ Ibid, 174.

¹⁰¹ Eoin Daly, "The ambiguous reach of constitutional secularism in republican France: revisiting the idea of *laïcité* and political liberalism as alternatives," *Oxford Journal of Legal Studies* 32, no. 3 (2012): 583-608.

was less a question of cultural identity and more a question of how stereotypes were used.¹⁰² The individual continued to be centered over the group and laws that limited group expression entered national conversations around when the bicentennial was held.¹⁰³ One could speculate that without *le Chapelier*, something related to anti-particularism or anti-corporatism would have cropped up regardless, but this law is what rooted this aspect of the French identity into even contemporary discourse.

The Law and French Universalism

Building off of the individualism of the DDHC, *Le Chapelier* furthers a strict national and individual standing of citizens while purposefully mitigating the ability to organize as a group. The DDHC made it very clear that the French nation and individual rights were at the forefront of human rights thought. These rights were universal to all free French men, and the declaration did not specifically take away other rights like that of group organization/identification. *Le Chapelier* is specifically a law that takes away rights— specifically rights tailored to groups as outlined in the first chapter, and it does so under the justification of the new constitution and the DDHC. By directly linking these two documents, the National Assembly continued to uphold individualism in the face of group particularism at the subnational level. As a staple of French identity and constitutional jurisprudence, the DDHC holds legal power that *Le Chapelier* no longer holds, but public group identification still remains something that is contentious as many women in France fight to be considered simply as Muslim and French at the

¹⁰² Michael F. Leruth, "François Mitterrand's 'Festival of the World's Tribes': the logic of exoticism in the French Revolution bicentennial parade," *French Cultural Studies* 9, no. 25 (1998): 051-80.

¹⁰³ Media coverage of the new debates surrounding the wearing of headscarves in public reemerged in the 80's and still are present today in France.

same time.¹⁰⁴ Multiculturalism is not a simple left to right issue in France, and the embedded nature of ideals rooted in this law and the DDHC undermine the strength of groups that attempt to organize on the basis of identity and community interests. In terms of legitimate political interests and public identities, there is the indivisible French nation, and there is the individual; *la loi le Chapelier* demonstrates that there is no room for anything in between.

2.3 Universalism Meets Nationalism: Renan's *Qu'est-ce qu'une Nation* ?

A state is defined by having territory, sovereignty, legitimacy, and having the capacity to interact with other states in an official capacity.¹⁰⁵ This is a rather intuitive definition that understands a state as a body that is controlled by individuals and requires the individuals within to support it by legitimizing it, but which also needs to act in a legitimate manner in order to be recognized as a state by other states. There is not an essential state; it can have a slew of regime types, government make-ups, and populace make-ups. So, when the positivist historian Ernest Renan put to words in his 1882 lecture at the Sorbonne (subsequently published as an essay) *Qu'est-ce qu'une Nation?* what he believed constituted a nation, it gained a lot of traction and is a direct tie to the building of national identity and quickly became a canonical reference for French republicans seeking to redefine French national identity in a way that would enhance the legitimacy of the young Third Republic and reflective their own moderately progressive and staunchly secular ideals.¹⁰⁶ Something key to this document is the idea that there is also no essential idea of a nation— it is malleable and will change based on the contents of various

¹⁰⁴ Aala Abdelgadir and Vasiliki Fouka, "Political secularism and Muslim integration in the West: Assessing the effects of the French headscarf ban," *American Political Science Review* 114, no. 3 (2020): 707-723.

¹⁰⁵ Johns, *Politics and International Law*.

¹⁰⁶ Ernest Renan, *Qu'est-ce qu'une nation?*, 1882.

internal and external factors within a state. Renan's approach to the idea of a nation is constructed such that norms and ideals of those within it are what constitute the national identity. Instead of positing an essential nation, Renan is making a contractual, abstract, consensus and collective imaginary/memory-based model in which many of the same problems of the DDHC become present.

One might expect Renan's definition of the nation to be clear but is actually rather ambiguous. "*Je me propose d'analyser avec vous une idée, claire en apparence, mais qui prête aux plus dangereux malentendus.*"¹⁰⁷ In the first sentence, Renan is already explaining that the nation is not as obvious a notion as many think. In a more sociological approach, Renan explains what does not constitute a nation. He outlines five factors often associated with the creation and identity of nations: race, language, religion, common economic interests, and geography. In the section regarding race, Renan makes points about how most nations are composed of many different ethnicities; trying to define a nation simply on the principle of ancestry is redundant even in countries that center ethnicity so prominently. "*La considération ethnographique n'a donc été pour rien dans la constitution des nations modernes. La France est celtique, ibérique, germanique. L'Allemagne est germanique, celtique et slave. L'Italie est le pays où l'ethnographie est la plus embarrassée. Gaulois, Étrusques, Pélasges, Grecs, sans parler de bien d'autres éléments, s'y croisent dans un indéchiffrable mélange.*"¹⁰⁸ Although Renan, in this section, makes reference to the inferiority of Semitic to Aryan races, this quotation underlines not only his own contradiction but also the strength of his argument. His opinions of 'ancient races' does

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

not matter in the actual building of a nation because race alone cannot constitute a national identity, and here he outlines precisely how obtuse and abstract definitions of race actually are.

His opinions on the other four categories follow suit. He outlines why people thought that these categories alone could be a consideration for what creates a nation, but explains that each in and of itself has no legitimate claim to the identity of a nation. Pushing against this rather essentialist idea of what a nation is, he concludes in the third part that, “*Une nation est une âme, un principe spirituel.*”¹⁰⁹ He expands saying that through plebiscite, through consensus, the good men of a nation are able to determine together what the national identity is. There is no essential nation, rather it is constructed by those men via shared ideals, memory, hardships, and heritage; and who consent to continue that memory and heritage together, adapting them to new present realities and challenges as needed through the aforementioned democratic deliberative means. Later he adds, “*Les nations ne sont pas quelque chose d'éternel. Elles ont commencé, elles finiront.*”¹¹⁰ Renan is generating an idea that is actually quite new, the idea that what constitutes national identity is ever changing and evolving, based on debate and consensus, primarily civic in nature, and transcends many of the deeply rooted cultural determinants (such as religion and ethnicity) that are divisive in a large population. The fundamental intention of this piece is not to claim an essential national identity, but to explain that national identity is formed of the plebiscite that determines it with reference to shared memory and heritage. The creation of French national (republican) identity by popular/ national interest is further predicated on an act of individual and collective will: any ‘intermediate’ identity must be put aside for the good of the nation as a whole. In a sense, this generates a sense of universality in Renan’s interpretation of

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

the nation. All civically equal individuals have a voice in this creation of national identity, thus basing it in a sense of individualistic universalism that does not give any one group or individual a stronger voice.

On the surface, Renan's vision of the nation represents perhaps a noble and ambitious ideal; however, the exclusion of women and non-white peoples is not hard to overlook. Just as consensus in *volonté générale* excludes minorities and marginalized groups, so too does the building of national identity around what a powerful majority determines it to be. Renan was an avid supporter of republican colonialism, but that does not appear in his rather constructivist and seemingly progressive understanding of national identity.¹¹¹ Are those in the countries being colonized by France not considered as equal despite considerations of race being null according to Renan? Do they not have a right to form their own nations based on collective memory, common heritage and values, and consensus without French interference? And what happens when colonial subjects, or their descendants immigrate to France? How might their memories, hardships, and heritage be incorporated into the necessarily evolving national consensus of French national identity when the majority position (not to mention the official one of the state) would seem to exclude, undermine, and/or repress them? The aim of Renan's document (itself a dated historical artifact and component of the national heritage that is up for debate), thus becomes more of an instruction manual on how to develop national pride not "solely" on the basis of race, language, and religion, etc.; but instead the implicit interconnectedness of the *dominant* race, language, and religion within a state—albeit cloaked in a veil of "democratic" consensus, hypothetical mutability in response to changing circumstances, and universalistic

¹¹¹ Gilles Manceron, *Marianne et les colonies: une introduction à l'histoire coloniale de la France*, La Découverte, 2020.

republican ideals. Common heritage and memory, though not essential and alterable via plebiscite, becomes a vast overgeneralization for the purposes of generating national identity. Renan exclaims pride in this ‘*simplicité française*’, but in its simplicity it overlooks how within those that have the theoretical ability but not always the agency to alter the national identity, there is a vast array of diverse perspectives that would likely alter what nationalism would look like given a truly equitable and proportionate plebiscite.¹¹²

How Renan Influenced Nationalism

The roots of nationalism as a contemporary entity are found as a result of the Napoleonic wars.¹¹³ The idea of the nation, however, has been around for much longer than the concept of nationalism as it stands today. Even in the DDHC, France is being referred to as *la nation* as opposed to *pays* or *royaume*, so the usage of the word and its relation to a distinct French national community and identity has been rooted in French thought since at least the beginning of the Revolution. Just under one hundred years later, Renan wrote *Qu’est-ce qu’une Nation?* and set forth a comprehensive theory onto what constitutes a nation. While still vague in what actually creates the nation, Renan explains why basing a nation in one simple identifier is a misstep and that the nation is composed of multiple factors and most importantly constructed from within. In France, Renan’s writings have been pervasive and influential. Yet, even beyond the scope of France, his definition of the nation can be seen (while not directly referenced) abroad as well.

One of the most important early contributions of *Qu’est-ce qu’une Nation* is its influence on *laïcité*. Renan is among the French thinkers who have shaped the concept; though, his

¹¹² Renan, *Qu’est qu’une nation*.

¹¹³ Hunt and Censer, *The Revolution and Napoleon*.

writings provide a contradictory notion of religion's role in French national identity. While addressing the lack of legitimacy that religion has in determining a nation, Renan at the same time equivalates Christianity and civilization and characterizes the nation as something spiritual.¹¹⁴ Historian Laudyce Rétat goes through many contradictory positions that Renan held, and something striking is that even in his rather staunch backing of Christianity still finds certain secular values.¹¹⁵ She critiques Renan's relevance to conversations of *laïcité*, but insists he is an important figure in its modern conception. Renan explains, "*Tout avantage remporté sur une religion est inutile, si on ne la remplace par une autre, satisfaisant aussi bien qu'elle le faisait aux besoins du cœur.*"¹¹⁶ So, even if his views are embedded in a linkage between civilization and Christianity, there is a sense that a civic religion or a moral system that replaces religion would still be a valid replacement. In some ways, that is what *laïcité* is; it seeks to underpin the core values of French identity and exist as a pillar of national moral characteristics. Secularism in French is codified and strictly upheld, and Renan's writing are demonstrated as having a direct influence on the instrumentalization of it especially insofar as his relegation of collective "particularisms" like race and religion to seemingly irrelevant status in the definition of what a nation is in favor of: more universally shared memories, hardships, civic and moral ideals, and contractual commitments parallels *laïcité's* imperative privatization of religion for the sake of a secular, rational, and universal, dominant public sphere.¹¹⁷ *Laïcité* remains a staple of the French national identity, becoming directly related to a sense of French nationalism.

¹¹⁴ Renan, *Qu'est qu'une nation*.

¹¹⁵ Laudyce Rétat, "Renan et le problème religieux de la Troisième République," *Études Renaniennes* 60, no. 1 (1985): 15-27.

¹¹⁶ *Ibid*, 16.

¹¹⁷ *Ibid*, 14.

Renan's influence is not just found in *laïcité* but also the formulation of French nationalism. Michel Debré points out a distinctness between patriotism and nationalism, saying, "*Le patriotisme n'est pas le nationalisme. Le nationalisme est un orgueil, une insupportable affirmation de supériorité qui justifie les actes les plus violents, et les tyrannies les plus inhumaines.*"¹¹⁸ Important to note, Macron made almost this exact point in 2018 when addressing the 100th anniversary of the armistice ending World War I.¹¹⁹ This piece builds upon the idea that *Qu'est-ce qu'une Nation?* is more than a definitional piece, rather it acts as a way to legitimize national identity and install a legitimate sense of patriotism within a state. Debré seeks to demonstrate that instead of progressing as a result of Renan's view of a constructed and abstract national identity, states relied on essentialist narratives surrounding race as the key to understanding national identity. This piece centers Renan as a key figure in what nationalism should be—i.e., universalist patriotism as a more enlightened and fraternal form of nationalism—and what it has instead become. Debré invokes the end of *Qu'est-ce qu'une Nation?* in which Renan explains that a nation is based in *une volonté commune*.¹²⁰ Debré, despite having called upon the problems of 'nationalism' as he defines it, still makes an argument suggesting that the nation must be preserved in order to preserve liberty. Liberty is an essential piece of the nation, specifically in France, according to Debré's reading of Renan. It is meant to be based on shared sacrifices and memories, but it is also dependent on a common will to change and/or continue it. It is a nationalistic claim to seek to preserve the nation on its 'intrinsic' merit—the only reason liberty is granted is by the state and those that have the

¹¹⁸ Michel Debré, "Qu'est-ce qu'une nation? Cent ans après," *Études Renaniennes* 42, no. 1 (1980): 3-13.

¹¹⁹ Macron in this speech seeks to say that rising nationalism as opposed to patriotism—seeking to villainize something that is not too different to the latter; Angélique Chrisafis, "Macron Warns of Rising Nationalism as World Leaders Mark Armistice," *The Guardian* (2018).

¹²⁰ Debré, « Qu'est-ce qu'une nation », 5.

majority voice in a consensus based national identity. So, the central contradiction is seen in the conflict between ‘liberty’ and a sense of majoritarian hegemony. Even though it is hard to derive nationalism directly from Renan’s writing, Debré has a sense of national pride as a result of Renan’s concept of the nation which in turn puts him further into nationalism than his undefined ‘patriotism’.

A similar form of nationalism that has some influence of Renan is found in Fanon’s *Les Damnés de la Terre*.¹²¹ In both Debré’s short piece and Fanon’s book, patriotism or nationalism are seen as a way to consolidate national identity in a productive and rights-given way. However, for Fanon this is a decolonial approach and has revolutionary undertones whereas Debré’s idol Renan, his positive intellectual legacy notwithstanding, was an apologist of French colonialism. The ability to become a nation, to Fanon was something that colonizers had reserved for a long time and beaten out of the colonized. The first section of his book is centered around reclaiming national identity such that nationalism can be used against the oppressor and that once independence is achieved, the nationalism of the new state can consolidate itself anew.¹²² This is strongly based on a constructionist understanding of the nation, the very idea that Renan posited 79 years before Fanon’s book. By centering the creation of new national identity based largely on shared experience and suffering, Fanon is giving credence to Renan’s interpretation of national identity forming from shared memory and sacrifice. Renan was able to influence not just France’s creation of national identity, but also influence Fanon’s theory of revolutionary nationalism.

¹²¹ Fanon, *Les Damnés de la Terre*.

¹²² *Ibid.*

How Renan builds on French Universalism

The final piece of French Universalism is the nationalistic component. The DDHC builds the relationship between universalism and France while *Le Chapelier* consolidates the DDHC's dual focus on the nation and the individual, but takes the further step of denying rights to groups that seem like particularist corporate interests – a notion that has been used throughout modern French history to undermine and dismiss group rights. Renan entrenches the concept of national identity as a key factor in the identity of a state and builds off of Rousseau's concept of *volonté générale* with his desire for a *volonté commune*. Renan's work influenced the formulation of *laïcité* and French nationalism such that the national identity in France is linked to individualism, the popular collective memory (esp. of shared hardships), democratic debate and consensus, and the universalistic values (esp. civic and political) of France. Renan's text is not codified, but its influence was felt and it is still considered a key French writing, especially by those who adhere to the tradition of claiming that the French (republican) nation is exceptional in its basis of universalism.

Renan is not preaching nationalism, but his understanding of national identity lends itself to still marginalizing minority voices and makes it possible to turn universalism itself into a key component of an essentialist understanding of the French nation that serves as cover for those with the most power. The nation is often centered in French Universalism—those that seek to identify a certain way that strays from the universal back to the particular in public are no longer acting as bona fide citizens of the French Republic but as that particularistic communitarian identity marker they have put on—in many cases based on one of the things Renan excluded from his definition of the nation (race, religion, etc., albeit as deprived minorities). At its core, Renan's theory of the nation relies on national heroes, myths, and memories to propagate a

national identity and service the building of a strong sense of nationalism of French people. His pride in the ‘simplicity’ of his argument hinges on a sense of national superiority consistent with the building of nationalism.

This notion of national identity and the universalistic undertones therein can still be seen in contemporary discourse. French president Emmanuel Macron has fallen back onto universalism various times, and how he views it as a staple of the French identity. In the introduction of the thesis, Macron was quoted as defending a pluralistic form of universalism. However, he often falls back on individualistic talking points that fall in line with a Renanian understanding of the nation. In a speech he gave on the occasion of the ‘pantheonization’ of Josephine Baker, Macron said, “*Ce n’était pas un combat pour s’affirmer comme Noire avant de se définir comme Américaine ou Française ; ce n’était pas un combat pour dire l’irréductibilité de la cause noire, non. Mais bien pour être citoyenne, libre et digne.*”¹²³ Here, Macron is asserting that she should be viewed as a citizen and a person—she is civically equal and her identity is not based in her Blackness but in her nationality and her being a citizen. Renan’s idea of the nation can be found in this as Macron tries to fit Baker’s identity into that of the dominant shared memory rather than allowing her to own her Black identity even posthumously. French universalism is keenly present here as Macron centers the nation and the individual over intermediate identification.

¹²³ Siraud, Matilde. "Emmanuel Macron ou le garant de l’universalisme." Le Point. December 1, 2021. https://www.lepoint.fr/politique/emmanuel-macron-ou-le-garant-de-l-universalisme-01-12-2021-2454603_20.php#11

Conclusion

Through influential French texts, this chapter has demonstrated a form of universalism distinct from the common understanding of it in human rights contexts. From the DDHC and the law *Le Chapelier* to Renan, France underwent massive changes and a variety of regime types e.g., the Terror, empire, war, constitutional monarchy, industrialization, the rise of class conflict, additional revolutions, conflict between Catholics and secularists, colonial expansions, and experiments in republicanism that finally succeeded in producing the consensus-building parliamentary Third Republic of Renan's time. From Renan to now, even more evolution has occurred in France. Something clear is that even though these texts are decades or centuries old, they hold a foundational place in the construction of French national identity and, as a result, the unique French universalism they articulate. This universalism takes aspects from these three documents and generates something that supports the individual, the nation, but not groups in between. Major facets of French identity, such as *laïcité*, are rooted in highly normative discourse on the strict separation of private and public life— an individual freely expresses a religious identity or a racial, ethnic, linguistic, regional, transnational, class-based, or gendered one, and so on—in private, but not in public (at least not in a way that impinges on civic and political life or universality). The separation of the individual and groups they belong to is built up through these fundamental documents. French universalism does not have to exclude the rights of groups, but in France the discourse often revolves around a 'multiculturalism or universalism' dichotomy or an 'anti-racism or universalism' dichotomy, that renders illegitimate even a measured and pragmatic group rights approach, including cases where the groups in

question are clearly the targets of systemic societal discrimination that deprives their individuals of their universal rights.¹²⁴

The first chapter explains that group rights are a means to a universal end. By not allowing group rights to be furthered, French Universalism in practice becomes paradoxically antithetical to the progression of universal human rights. There is a strong sense of no room for large scale group identification in France demonstrated by a restrictive prohibition regularly relayed by the discourse of the media and politicians across the left-right spectrum. A ‘crisis of national identity’ is pointed to consistently by public intellectuals, polemicists, and politicians, and a growing sense of populism and right-wing nationalism follows suit.¹²⁵ Further research would be able to place the discourse of French universalism as outlined in broad terms in this chapter in conversation with human rights legislation in the country, its compliance with human rights treaties at the European Court of Human Rights and at the UN, and the French state’s interactions towards human rights organizations and groups within its borders.

The next chapter will bring into light France’s compliance with the ICERD, and its compliance will be analyzed against this understanding of French Universalism. Because the ICERD is based on the affording of group rights to marginalized communities, it is expected that France will fall short in certain obligations that are not in line with France’s values in its interpretation of universalism. This chapter and the previous one will provide meaningful context to how France complies with the treaty, as opposed to assigning a score without understanding the why behind its level of compliance at a national level. Hopefully, the present chapter will

¹²⁴ Hans-Jürgen Lüsebrink, "Universalisme des Lumières et impérialisme colonial." In *The Epoch of Universalism 1769–1989/L'époque de l'universalisme 1769–1989*, pp. 55-70, De Gruyter, 2020; Naomi Schor, "The crisis of French universalism," *Yale French Studies* 100 (2001): 43-64.

¹²⁵ Michael F. Leruth, "The neorepublican discourse on French national identity," *French Politics and Society* (1998): 46-61.

serve as insight into why or why not France complies with the ICERD. But regardless of its level of compliance, France's characteristic universalist discourse on human rights still has blind-spots specifically against groups that desire to exist (and enjoy basic human rights) somewhere between the individual and national level.

Chapter 3: France's Compliance with the ICERD as it relates to French Universalism

In the previous two chapters, France's role in the creation of the ICERD was examined as well as the concept of group rights and what this thesis posits as a distinct French universalism that may be described as nationalistic and antithetical to group rights. This final chapter aims to analyze France's overall compliance with the ICERD in an attempt to demonstrate that due to the nature of French universalism France is predisposed to incomplete compliance. Before doing so, it is important to focus on France's ratification, and whether or not France was a sincere ratifier. According to Beth Simmons, ratification can be viewed in three categories: sincere ratifiers, or those that ratify because of a founded desire to comply; strategic ratifiers (or false positives), or those that ratify for optic and bad faith reasons that seek to gain from ratification without intention to comply; and false negatives, which are states that do not ratify despite either already complying broadly with a treaty or being a prime candidate for ratification.¹²⁶ France, it will be argued, is a sincere ratifier despite certain positions that may make it look strategic in its ratification.

In chapter 1, France's role in the creation of the ICERD reveals much of France's status of commitment. Simmon's position is that there are certain characteristics that heighten the likelihood of a state's commitment to an international, multilateral human rights treaty: its being close to a government's 'ideal point', a code law judicial system, and low adjustment costs.¹²⁷ Chapter 1 shows how France pulled the treaty back from a more radical stance while in

¹²⁶ Beth Simmons positions instrumental theories of ratification and compliance using convincing data. Most states are sincere ratifiers, and intention when ratifying and later noncompliance does not necessarily indicate a strategic ratifier; Simmons, *Mobilizing for Human Rights*, 56-7.

¹²⁷ *Ibid*, 60-72.

subcommittee. The ideal point is where in negotiations a treaty best fits with as many states as possible. France's actions in subcommittee would indicate that the treaty was pulled much closer to France's ideal point—the cost of entering into the treaty was lessened as a result of the lessened provisions of the treaty. France also notably has a code law system in which there is less pressure than in a common law system to further human rights. In a common law system, judges can have much more power to change interpretations of human rights, such that some states with a common law system are less willing to commit for fear of jurisprudence going beyond the parameters of the treaty. France, then, was more likely to ratify on this basis. Finally, the treaty itself has rather low adjustment costs in general—the provisions of the treaty are not too high in obligatory force at a baseline.¹²⁸ France, already committed strongly to individual rights as a part of its revolutionary and republican heritage, likely viewed the adjustment costs to be relatively low. As chapter 1 outlined, the treaty was in line with some policy aimed at integration of immigrants. So, since the treaty was in line with France's broader ideals at the point of ratification, France can be viewed as a sincere ratifier. And as mentioned in the first chapter, France also was pulling out of certain international responsibilities, so to ratify a (the first multilateral UN) human rights treaty does not have a strategic air. France would likely not back a treaty for strategic purposes while trying to pull back international responsibilities as that is antithetical to lessening international responsibilities.

To follow up her theories of commitment, Simmons also provides certain factors that outline why a state may or may not comply with a treaty or certain provisions therein. Those are: executive powers, courts (and the leverage of litigation), and group demands and their ability to

¹²⁸ United Nations, ICERD.

mobilize civil society.¹²⁹ Going through each of these points will give a strong look at the expected level of France's compliance with the ICERD. First, France's executive branch, namely the French president, does not have executive powers that would allow them to forward a human rights narrative like executive orders that a United States president can use.¹³⁰ A president in France is limited to signing laws passed in parliament that may entrench human rights with legislative oversight. They may also use their "bully pulpit" or coordinate action with the prime minister, who is the constitutional head of government in France's unique "bicephalic" executive branch. However, neither of the latter two options has the political clarity or practical efficacy as written orders issued from the highest echelon of executive power. Second, France has a civil law system which may be a useful indicator of commitment, but it can impede domestic compliance of human rights treaties. This comes forth for various reasons, but principally because if cases brought up regarding the treaty cannot affect jurisprudence and the leverage of litigation is low, then human rights set forth in the treaty must be written into law.¹³¹ Finally, civil society organization in France on the basis of group identification, as explained through chapter 2's assertion of a distinct French universalism, is not a very prominent aspect of French civil identification. The lack of group identification even in more recent movements like *les gilets jaunes* indicates a relatively disorganized civil society less willing to mobilize for human rights compliance. These three factors in conjunction are already dominant factors that would lead to an assumption for noncompliance or at least incomplete compliance, but the theory of commitment must still be considered when interpreting compliance. It is assumed that France is

¹²⁹ Simmons, *Mobilizing for Human Rights*, 148-50.

¹³⁰ French constitution 1958.

¹³¹ Simmons, *Mobilizing for Human Rights*, 130-5.

a sincere ratifier, so even if there are these three factors that may impede complete compliance, compliance obviously still happens even when none of these conditions are met.

The above interpretation of Simmons' theory of compliance as it relates to France already presupposes incomplete compliance. This chapter will argue that as a result of France's interpretation of universal human rights and its embedded concept of French universalism, France is even more strongly predisposed to incomplete compliance with the ICERD. Simmons' theory provides a strong analytical tool for analyzing compliance already, and French universalism can be used as tool for describing the lack of strongly backed group demands to fill in holes of France's incomplete compliance with the ICERD, and likely its compliance with other treaties. The first section of this chapter will begin with a discussion of France's reservations on the ICERD, and give a rationale based on theories of reservation. It will continue with an obligation level analysis of article 2-7 of the ICERD, in which noncompliance with these articles will be broadly discussed. The section will end with a discussion of what the noncompliance means in a contemporary context, and where France still complies. The second section will operationalize French universalism to analyze noncompliance and to explain *why* France has suboptimal performance under the ICERD. It will then discuss the various ways that French universalism appears in this suboptimal compliance. It ends with arguments that French universalism may assert to feign compliance with the ICERD.

3.1 France's Compliance with the ICERD

Above, the chapter asserts that France is predisposed to incomplete compliance, and this may come across as some essential facet of France, something preordained and unavoidable. The

truth of the matter is that France is *mostly* compliant with the ICERD. The arguments in the upcoming pages focus primarily on where France does not comply, but this is neither essential or unavoidable non-compliance. States' level of compliance can shift overtime and stronger commitments to group and civil society organization can lead to what seems like insurmountable domestic mobilization and subsequent national change. Human rights can and are mobilized for on a global scale by domestic civil societies. Nevertheless, France has suboptimal contemporary compliance with the ICERD, and this will become strikingly clear by the end of the chapter. Most of this lies in the highest cost provisions of the ICERD, and in France's reservations.

France's Reservations on the ICERD

A major avenue states take in order to opt out of full compliance is via reservations. Reservations are generally formal, though still entirely controversial, ways to bend or interpret a treaty to be more in line with already existing 'values' (in many cases, just laws or lack thereof) in a state.¹³² Earlier interpretations of why states may place reservations centered similarly around factors like judicial system or regime type like in the theories of commitment and compliance stated above; however, Zvobgo, Sandholtz, and Mulesky (2020) simplify theories of treaty reservations in terms of how demanding the treaty provision is. The more demanding a treaty provision, the more likely it is for there to be a reservation placed on it. When exploring France's reservations with the ICERD, it becomes clear that France fits into this theory as a near perfect match.

France, along with multiple other western European countries including the former West Germany and Great Britain, placed a reservation on the 4th article of the ICERD, which, as

¹³² Kelebogile Zvobgo, Wayne Sandholtz, and Suzie Mulesky, "Reserving rights: Explaining human rights treaty reservations," *International Studies Quarterly* 64, no. 4 (2020): 785-797.

explained in chapter 1, is the most demanding provision of the entire treaty. This article aims to eradicate any propaganda or hate speech on the basis of racial identity or racial inferiority, and it would require states to make legislation that made such propaganda and speech illegal.¹³³ As a result of the strength of this provision, France reserved to interpret the article as not requiring legislative action limiting free speech. Though not alone in this decision, France would still eventually make anti-hate-speech legislation just a year after ratification, in 1972.¹³⁴ This law, however, was specifically related to the press and had only fines associated with breeches of it, leaving most individual cases of hate speech still tacitly protected since France maintains the reservation to the present and has not criminalized individual, non-print, hate speech in the same way—you can sue as an individual but not criminally. Though not an official reservation, France also states in its reports every four years to the CERD that because of the existing legal system in France, it does not need to have a formal way to report complaints regarding enjoyment of the rights outlined in the ICERD and does nothing to expound upon this further in its reports.¹³⁵ This is both related to article 4 and 6 such that individual complaints concerning the ICERD cannot be lodged as a result of discriminatory actions committed against individuals—there is no official committee in France that oversees complaints regarding the non-enjoyment of rights granted under the ICERD as intended by article 6.

Due to the lack of individual avenue for complaint and the multiple ways in which hate speech is still technically legal in France, it can be assumed that France is not compliant with article 4 as it was intended. At the most technical level, France is compliant with article 4 since its interpretation of the article via its reservation does not oblige France to make legislative

¹³³ United Nations, ICERD.

¹³⁴ La Loi Pleven, Paris, France: French Parliament, 1972.

¹³⁵ Twenty-second and twenty-third periodic reports of the State party, Paris, France: United Nations, 2019.

provisions that impede “free speech”. Luckily for France, free speech is a very broad blanket that can be applied in a multitude of situations to skirt provisional obligations to the article 4 of the ICERD. It is also worth noting that since 1972, there have been no other successful attempts to create major, comprehensive antidiscrimination legislation regarding hate speech—the jurisprudence ends there with *la loi Le Pleven*. According to French reporting to the UN, discrimination “only happens at the individual level,” and as such does not need to take in demographic data that would indicate race, ethnicity, religion, or cultural background.¹³⁶ By not collecting this data, France is assuming itself as post-racial on the basis of individualism, such that any racism faced would be understood as an individual act of hate. So, this reservation leads to a certain level of noncompliance with the overall purpose of the ICERD even if it is in place so that France does not have to fully comply.

Obligation Level Compliance

A note about the following obligation level analysis: while not being exhaustive, it will aim to show the various ways in which France *does not* comply with *specific aspects* of treaty articles 2-7. This analysis is being done on the assumption that incomplete compliance is a possibility, and that a state can remain mostly compliant despite falling short in certain areas. The chapter is specifically assessing noncompliance, but this does not mean that outside of what is analyzed France is completely compliant with the rest of each article. Keeping this in mind, it is important also to note that even if France is mostly compliant with the ICERD, any level of noncompliance should not be overlooked—assessing compliance is an important way to address

¹³⁶ Office of the High Commissioner of Human Rights. “Experts of the Committee on the Elimination of Racial Discrimination Commend France on Ceasing Police Checks of French Traveller Community, Ask Questions on Closures of Places of Worship and Dismissal of Racial Discrimination Complaints,” United Nations, November 16, 2022.

disparities. Where the UN does not address everything third parties can analyze compliance. Third party ‘shadow reports’ on France do not exist for ICERD, so in a way this chapter is acting to fill that role that is often carried out by the civil society of the state in question. While this analysis will provide a broad view, full reports could likely be written for some of the points of suboptimal compliance. However, overall compliance is an important means of demonstrating the various places that France struggles with the treaty, so the focus will be on a broader conversation.

Article 2 of the ICERD is the first nondiscrimination provision of the treaty, and it specifically addresses state practices that lead to discrimination of one group over another. In object, it is aimed specifically at rooting out any *de jure* racism at all domestic levels within every state entity.¹³⁷ Now, it becomes necessary to bring in the various bills that limit the wearing of religious garments in public. The first was for school aged girls, though branded as a law that banned “*le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics.*”¹³⁸ With a universal and secular edge, this law does not specifically target any one religious group; though, as it will be shown later, the discourse surrounding this bill demonstrates that it was a thinly veiled anti-Muslim-veil bill. In 2011, more targeted national bill made illegal full-face coverings in public spaces; and, in 2016, many local ordinances banned burkinis at public beaches.¹³⁹ Now, there is a compliance argument to be made: everyone regardless of religious orientation has to follow these laws. The problem falls when, *im practicum*, the law intentionally discriminates against Muslim women of color more so than other groups. In particular, nuns in public spaces are not asked to unveil or remove religious

¹³⁷ United Nations, ICERD.

¹³⁸ Loi no 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics, 2004, France.

¹³⁹ Loi interdisant la dissimulation du visage dans l'espace public, Paris, France: French Parliament, 2011.

attire on the very same beaches where Muslim women have sometimes been forced to unveil or not be permitted in that public space.¹⁴⁰ This is a clear uneven application of the law that is unduly discriminating against people of color that wear facial and full body coverings. The protection of nuns versus the targeting of veiled Muslim women demonstrates noncompliance with both article 2(1c) and 2(1d) as this is a state law that is not only *de facto* but also *de jure* discrimination on the basis of cultural background. To the present, most if not all local ordinances have been taken away; though, the two veil bans remain in effect (the 2003 and 2011 laws). France has also done much to limit the voices of groups that build themselves on the basis of multicultural identity, such as how the state dissolved the *Collectif Contre l'Islamophobie en France* in 2020 via a specific anti-separatism law.¹⁴¹ This also demonstrates a lack of compliance with article 2(1e) as France is doing precisely the opposite of what the article obliges France to do in disbanding an antidiscrimination group that criticized France's treatment of Muslim people and groups. All of these are rather explicit examples of noncompliance as well as visible disparities even despite "not needing to take demographic data" on the pretense of a truly 'colorblind' state.

Article 3 says that any state party must fully desegregate and fully stop any apartheid practices. France fully complies with this article legalistically. There are no laws in France that constitute for *de jure* segregation or apartheid. France is very clearly not an apartheid state. Despite this, there are several factors that undermine and underrepresent minorities in France—obviously not to the point of apartheid, but it is still problematic. The following problems are

¹⁴⁰ Emanuela Campanella, "People share photos of nuns on the beach in response to burkini ban in France," *Global News*, August 25, 2016, <https://globalnews.ca/news/2903036/people-share-photos-of-nuns-on-the-beach-in-response-to-burkini-ban-in-france/#:~:text=Nuns%20can%20wear%20their%20habits,How's%20that%20progressive%3F>.

¹⁴¹ "France: Dissolving Anti-Discrimination Group Threatens Rights," *Human Rights Watch*, December 4, 2020 <https://www.hrw.org/news/2020/12/04/france-dissolving-anti-discrimination-group-threatens-rights>.

also often associated with apartheid. First, there is a strong consolidation of white men in power in France. While demographic data is unavailable, and it is illegal to take such census data in France, it is very likely that the legislature and government of France is strongly disproportionately white and male.¹⁴² It is important to note that without demographic data, there is an air of intentionality to not be able to accurately report of over or under representation of identity markers within the national assembly. Without defensible demographic data, it is hard to demonstrate the frequency with which many racial minorities are relegated to second class citizenry. As it stands, though, there is likely a disproportionate number of minoritized peoples in HLMs and in *les banlieus* that speaks to the general racial disparities between white and non-white French folk. This point of view is reflected in Silverstein and Tetreault's piece condemning France for what they call a "postcolonial urban apartheid".¹⁴³ This piece will be talked about further shortly, but much of what they reference is the *quotidien* police violence and general disregard of the states for these places other than over policing. Regardless of the state's actions in these spaces, as it stands, France is compliant with article 3 as it is worded in the treaty.

Article 4 is that on which France placed its major reservation protecting free speech over denouncing hate speech. As explained earlier, France did still make steps to protect marginalized groups from hate speech via the press, but it is worth noting that certain publications and politicians still espouse thinly veiled racist and anti-immigration rhetoric. The Le Pen family has been a mainstay in politics via their support for anti-immigration policy and intensely nationalistic lens of French politics. It is important to note, though, that multiple far-right pundits

¹⁴² "Est-ce que les statistiques ethniques sont interdites en France?," *Libération*, January 16, 2018, https://www.liberation.fr/checknews/2018/01/16/est-ce-que-les-statistiques-ethniques-sont-interdites-en-france_1652990/.

¹⁴³ Paul A. Silverstein and Chantal Tetreault. "Postcolonial urban apartheid." *Items and Issues* 5, no. 4 (2006): 8-15.

and politicians (including Jean-Marie Le Pen as recently as 2021) have faced legal backlash, but that did not stop the xenophobic rhetoric being espoused.¹⁴⁴ As a result of its interpretation of the article under its reservation, France does not have to legalistically limit what the article positions as discriminatory propaganda. Therefore, France is compliant with the fourth article. Above, the chapter argues why the reservation still makes France noncompliant, but as far as obligation level compliance is concerned France is still technically compliant as a result of the reservation.

Article 5 has the intention of extending all individual civil, political, and economic human rights enjoyed by the dominant group in a state to any marginalized group in member states. To get right into the analysis, France does not fully comply even with the first sub-article, article 5(a), which would give equal protection under the law granting equal due process to all within the state. Some sources have asserted that as much as 70% of France's prison population is populated by Muslims even though they make up roughly 8-10% of the overall population figure in France.¹⁴⁵ While this 70% figure has been widely disputed, the usual more conservative estimate still sits around 40% of the prison population.¹⁴⁶ This unequal distribution of prisoners could suggest a few things, but the most likely hypothesis is simply that diaspora communities are overpoliced in *les banlieus* despite 'racial demographics not being relevant in a French context.'¹⁴⁷ This idea is furthered in Silverstein and Chantal's piece that examines the long standing history of violence and harassment those in *les cités* have faced, particularly racial minorities.¹⁴⁸ This would suggest unequal legal rights for a racial and religious minority with

¹⁴⁴ News Wires, "French Far-Right Party Founder Jean-Marie Le Pen Faces New Hate Trial," France 24 (France 24, September 1, 2021), <https://www.france24.com/en/france/20210901-french-far-right-party-founder-jean-marie-le-pen-faces-new-hate-trial>.

¹⁴⁵ Sam Bowman, "Are 70% of France's Prison Inmates Muslims?," Adam Smith Institute, March 29 (2017).

¹⁴⁶ Ibid.

¹⁴⁷ United Nation, Experts on the CERD Condemn France.

¹⁴⁸ Silverstein and Tetreault. "Postcolonial urban apartheid."

respect to incarceration in France, and that France is noncompliant with this first sub-article. France is also noncompliant with article 5(diii, vii, and ix). These three provisions are extending the right to nationality, religious expression, and assembly and association to marginalized groups within member states. With the dissolution of CCIF and with the various head scarf bans, France has made it very clear that group identification and minoritized religious expression are not welcome within the public spaces of the Republic.¹⁴⁹ Religious expression is not just a tenant of the ICERD but also in multiple other treaties that France is party to, so France's treatment of religious minorities under the justification of *laïcité* continues to be called out by the UN in different reportages as recently as 2022 and by individuals in France.¹⁵⁰ The country is technically compliant with the rest of the provisions as a result of their individualistic stance on civil and political rights.

Article 6 (also briefly talked about above) seeks to provide a legal individual accountability measure (something legally engrained that allows complaints specifically related to the ICERD to be heard) within each member state to address complaints of discrimination related to the treaty. In almost every report to the UN since ratification, France has asserted that its legal system provided already adequate means for individual complaints.¹⁵¹ So, when France has been called out for consistently dismissing individual complaints by the UN human rights committee and CERD, it paints a picture in which France's legal system is likely, in fact,

¹⁴⁹ United Nations, Experts on the CERD Condemn France; France: Banning the niqab violated two Muslim women's freedom of religion - UN experts, New York, New York, United States: United Nations, October 23, 2018.

¹⁵⁰ United Nations, Experts on the CERD Condemn France.

¹⁵¹ United Nations 1976-presnet.

inadequate at addressing individual complaints.¹⁵² This is simple and clear noncompliance that goes unaddressed.

Finally, France is mostly compliant with article 7, other than the 2003 religious apparel ban in public schools that undermines the goal to foster a culturally diverse, integrated, and aware community within each member state. This provision is rather broad, and relatively unclear, so challenging France's compliance with it is not necessarily as simple as the previous provisions. One major sentence asserts that there must be a tolerance for ethnic and racial groups within a state, so France's noncompliance in the previous articles demonstrates that there is a certain intolerance to the idea of subpopulations or communitarian identification between the individual and the nation. A tradition of assimilation (civic indivisibility among citizens of the Republic) opposed to pluralistic integration (tolerance of difference in the form of intermediate association and organization) seems to be the justification, so it can be argued that France is actually compliant simply differently compliant.

Summary of Compliance

France has many areas of noncompliance to address, but France is *mostly* compliant with the treaty. The points above mostly argue noncompliance to *parts* of each article. The noncompliance demonstrated, however, is still of major concern and absolutely should be addressed rather than falling back on the same arguments of colorblindness that France has been invoking since its ratification. The CERD has consistently given France critical feedback, and even if France argues that there is only *de facto* discrimination, this chapter showed that there are

¹⁵² United Nations, Experts on the CERD Condemn France.

pieces of noncompliance that could likely be interpreted as quasi-intentional from a legal standpoint.

3.2 Suboptimal performance through the lens of French Universalism

First and foremost, this section seeks to unpack some of this suboptimal performance using the concept of French universalism delineated in the previous chapter. It will begin with a subsection in which French universalism is operationalized such that it can explain why France has suboptimal performance under the treaty. It will continue with an analysis of noncompliance using the operationalized term. The section will finish with how France may attempt to justify noncompliance through its understanding of universalism, and why that may challenge the overall purpose of the treaty. Much like how a completely holistic look at compliance was not undertaken in the previous section, French universalism also does not represent a ‘catch-all’ explanation for *all* incomplete compliance but can be used to demonstrate trends in noncompliance observed above.

Negotiations with French Universalism

In reviewing some themes from the previous chapter, a broader understanding of suboptimal compliance can be formulated. First, French universalism is antithetical to group organization, identification, and in some cases association. The canonical texts demonstrate a strong emphasis on the individual and the nation. As Le Chapelier himself wanted through the law, France was to not have any intermediate identification.¹⁵³ In building a sense of

¹⁵³ Le Chapelier, "Rapport par M. Le Chapelier sur les assemblées de citoyens du même état, lors de la séance du 14 juin 1791"

universalism in France, the individual was the foremost important aspect. This predilection is rooted in enlightenment ideals of the individual—especially Rousseau's understanding of the individual, which is referenced in numerous influential documents extolling French universalism. Finally, French universalism is rooted in a certain coercive national identity, one that seeks to sublimate rather than accommodate other allegiances or group identifications. Renan, through *Qu'est qu'une Nation?*, demonstrates a rather definitive understanding that group identification is detrimental to national solidarity—that a plebiscite of men with a shared memory and a common civic ideal is what creates a nation.¹⁵⁴ This idea of the nation is coercive in the fact that it wishes to consolidate many identity markers to generate a single national identity that has no room for minority or sub-identification which is relegated to the discreet confines of individuals' private lives (out of the public eye). A sense of nationality that has no room for group identities is naturally going to clash with certain provisions of the ICERD.

The definition of French universalism was made to also be able to operationalize it as a lens with which to explain noncompliance. The previous chapter used those three primary sources (the DDHC, *La Loi le Chapelier*, and *Qu'est qu'une Nation?*) to demonstrate a long-standing nature to the concept. It argues that the concept is rooted in the French collective consciousness as it is how France sees human rights and how they ought to be afforded to those in France.¹⁵⁵ The canonical nature of the documents, especially in their influence on other core French identity tenets such as *laïcité*, solidifies French universalism as a meaningful lens through which to view compliance of a treaty aimed at protecting minority groups. It is important to note that there is not an assumption that all noncompliance can be traced to the incapacity to reconcile

¹⁵⁴ Renan, *Qu'est qu'une nation?*.

¹⁵⁵ In this book, Hazareesingh unpacks many French myths and ideologies. It is a phenomenal reference for further research of topics like universalism, secularism, and more; Sudhir Hazareesingh, *How the French think: An affectionate portrait of an intellectual people*, Basic Books, 2015.

group rights in French universalism. It is very possible that French universalism lacks some operational force; the lens does not fully explain noncompliance while still being a useful tool in critically analyzing and explaining France's suboptimal compliance.

Examining Noncompliance via French Universalism

The first of two major categories in understanding noncompliance as a result of French universalism is the concept of islamophobia. In their book *Islamophobie: comment les élites français fabriquent le problème musulman*, Hajjat and Mohammed put forth a definition of islamophobia that shows a constructed, though firmly rooted social meaning of the term.¹⁵⁶ They then argue how the French elite, using markers of the French identity like *laïcité*, generate, construct, and root islamophobia in both policy and common attitudes in France.¹⁵⁷ The normalizing effect of the elite discourse has seen major purchase in targeted legislation that aimed to limit the expression of Muslims in France. The noncompliance demonstrated in article 2 and 5 can be well understood with islamophobia as a product of French universalism. The way in which it manifests in France is pervasive; many Muslims in France feel the effects of France favoring keeping cathedrals up rather than keeping mosques open or allowing nuns to be veiled in public rather than allowing Muslim girls and women to veil at all.¹⁵⁸ In her 2014 book *The Republic Unsettled*, Mayanthi Fernando argues that the French republican national identity renders Muslims, especially Muslim girls and women, "illegitimate as political citizens and moral subjects."¹⁵⁹ She asserts in her introduction, "The republican model of citizenship

¹⁵⁶ Abdellali Hajjat and Marwan Mohammed, *Islamophobie: Comment les élites françaises fabriquent le "problème musulman"*, La Découverte, 2022.

¹⁵⁷ Ibid.

¹⁵⁸ UN 2022.

¹⁵⁹ Mayanthi L. Fernando, *The republic unsettled: Muslim French and the contradictions of secularism*, Duke University Press, 2014.

ostensibly treats individuals as individuals rather than as members of a community, and it therefore requires immigrants to subsume any particular ethnic, racial, cultural, or religious attachments to a universal French national identity.”¹⁶⁰ Here, she has effectively pinned down one of the major underlying problems: French secularism is unwilling to accommodate Muslims (who she also asserts have become as much a racialized group as a religious one in France and Europe more broadly) and not that Muslims are unwilling to ‘be French’. The French republic is specifically unwilling to support group identification on the basis of being Muslim, and this is directly a byproduct of French universalism’s impact in the creation of *laïcité*.

Islamophobia as a byproduct of French universalism also explains the specific noncompliance of article 2(e) and article 5(dviii) that aim at protecting the organization of groups within a state. Specifically related to France’s dissolution of the CCIF, France’s elite demonstrated a lack of tolerance to the idea of a group that identified under the nation and above the individual that sought tolerance of their group therein via a finding (grounded in a recent anti-religious separatism law), judged specious by many both in France and internationally, that the organization had inappropriate ties to religious organizations (like the Muslim Brotherhood) accused of supporting Islamist terrorism.¹⁶¹ Under the lens of French universalism, the governing elite of the French Republic would be expected to clash with such a group—to be not only Muslim in private religious spaces because such a group’s implicit refusal to confine being Muslim to the individual private sphere undermines the nationalistic subtext of French universalism.

¹⁶⁰ Ibid, 13.

¹⁶¹ This bill is positioned specifically to target Muslims despite, as is patterned with other targeted laws, even if it has neutral language; “France’s lower house approves anti-separatism bill to battle Islamist extremism,” France 24, July 23, 2021, <https://www.france24.com/en/live-news/20210723-france-s-lower-house-approves-separatism-law-to-battle-islamist-extremism>

The second major category that French universalism can explain is a relatively recent critical turn against "anti-racism" among public intellectuals, politicians, and influential media. Many news and opinion outlets in France, namely *L'Obs*, *Le Monde*, and *Libération* all demonstrate a consistent discourse that many political figures buy into that aims to polarize anti-racism against universalism as if the two cannot coexist. In a piece centered around the historian of race in the United States and in France and new Minister of Education and Youth, Pap Ndiaye's appointment as the minister of education in France, *L'Obs* outlined the former minister of education's (Jean-Michel Blanquer) stance on universalism and anti-racism.¹⁶² In his reasoning, he positions universalism as a direct counter to anti-racism such that they are mutually exclusive, independent ideologies that cannot be understood together. The root of this issue is that France is unwilling to accept group identities as a valid means of self-expression, not really that universalism is antithetical to anti-racism, and even a few decades ago universalism and anti-racism worked hand in hand to thinkers on the left like Sartre. In essence, the ICERD is an anti-racist treaty that denounces racism and protects group identification. But, the ICERD is also seeking to reach a universal end to which everyone in every state party to the convention enjoys the same rights as the dominant group regardless of group status or minority status. The state's position that everyone is already equal in terms of rights is far from the reality, especially for Muslims in France. The office of Prime Minister, Elisabeth Borne, recently put out what is being called the "*le plan national contre le racisme, l'antisémitisme et les discriminations liées à l'origine*." This initiative is in an effort to name, quantify, and sanction acts of hate as well as support the victims of those acts.¹⁶³ While this initiative still has very little in the form of policy,

¹⁶² Courage and Guellec, « Au-delà du symbole. »

¹⁶³ "Un nouveau plan national contre la haine et les discriminations," *Gouvernement français*, January 1, 2023, <https://www.gouvernement.fr/actualite/un-nouveau-plan-national-contre-la-haine-et-les-discriminations>.

this could demonstrate a shift in the state's narrative. As we will see in the proceeding section, however, it could also be argued that the government is simply trying to cover from criticism surrounding racial discrimination.

When examining article 6, the French state consistently dismisses complaints addressed to the state from those living within its territorial borders.¹⁶⁴ This November 2022 UN press release states that “most cases of racial discrimination are dismissed or dropped.”¹⁶⁵ This is a clear disregard of the presence of any kind of institutionalized and systemic racism in France and the behavior has not gone unnoticed. Because the republic does not support or acknowledge group identification, any racism in the state is chalked up to being at the individual level under the belief that it could only be individual choices and not a product of long-standing sociohistorical forces or traditions based under a coercive national identity that targets specific minority groups. However, even if a defense based on public versus the strict separation of private life is allowed by France, it would fall flat in the face of major mosques being closed across the state by the government.¹⁶⁶ As reported in a 2022 in the same press release from the UN, France has been closing multiple mosques over the closure of cathedrals, and Juliette Jabkhiro at Reuters reported that 22 mosques have been closed in the last 18 months (as of April 2022, a marked increase from the previous few years) as a result of the same anti-separatist law that dissolved CCIF.¹⁶⁷ Support for Catholicism and undermining of Islam in the country demonstrates a rather large disparity concerning whose ‘private life’ is protected in France.

¹⁶⁴ United Nations, Experts on the CERD condemn France.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.

¹⁶⁷ Juliette Jabkhiro, “Special Report: French mosque closures based on ‘secretive evidence,’ critics say,” *Reuters*, April 5, 2022, <https://www.reuters.com/world/europe/france-closes-mosques-with-powers-that-some-critics-say-use-secretive-evidence-2022-04-05/#:~:text=French%20authorities%20have%20closed%202022,over%20the%20previous%20three%20years>.

Those who are being granted the same ‘universal rights’ are in reality losing their places of worship and having laws positioned against them to limit their religious expression. The whole goal of the ICERD is to prevent this very disparity, but as a result of French universalism’s understanding that nothing lies between the nation and the individual (except the interests of historical majorities), the rights of the subaltern, the diaspora, the marginalized are ignored as the dominant group consolidates their ‘universal’ human rights.

Finally, there is something that has been alluded to but has not been specifically touched on. France, in all its ideals of being ‘post-racial’ and colorblind, has experienced many protests, riots, and other forms of activism and civil disobedience that specifically undermine the idea of French universalism.¹⁶⁸ Laws like the 2003 religious symbols ban often have an adverse effect on integration and instead of limiting a group’s identity will cause an even stronger group identification.¹⁶⁹ France is not post racial, and there are clear group identities that fall between the nation and the individual whose expression and identification France purposefully limits under the aegis of French universalism. Altering a 1978 law that allowed the taking of racial and ethnic data through a national judicial council, France and its judiciary affirmed taking racial demographic data in the country is unconstitutional in 2007.¹⁷⁰ The French republic is hiding behind French universalism despite its commitment to the ICERD and its suboptimal compliance therein.

¹⁶⁸ In media like the film *La Haine* and collectives like CCIF, it is clear that there is some kind of disconnect between what France centers as core tenets of national identity and what is actually happening in diaspora communities within the state.

¹⁶⁹ Abdelgadir & Fouka, “Political secularism and Muslim integration in the West.”

¹⁷⁰ “Est-ce que les statistiques ethniques sont interdites en France?.”

Arguing Compliance with French Universalism

France also has the capacity to argue that it is compliant with the provisions of the ICERD treaty by using the concept of French universalism. Using this framework, some of the biggest holes between the UN's interpretation of universalism and French universalism are revealed. First, article 4 compliance can be assessed as France being technically compliant with its justifications rooted in core tenets of French universalism. As a result of France's attitude towards individual rights rooted in the DDHC, free speech has become a core principle to the French national identity much like in other states that rooted themselves in enlightenment ideals.¹⁷¹ The reservation put on article 4 results from this perception of a grand freedom that the Republic is loath to limit (even though it did limit it in 1881 and 1972) such that certain publications could make rather racialized content or cartoons without any legal accountability despite arguably going against the 1972 Pleven law.¹⁷² The idea of universalism under the UN seeks to pull up everyone to equal human rights—it asserts the importance of tolerance and the legitimacy of group identification through the ICERD. However, France manages to successfully use French universalism's enlightenment roots to put free speech above protecting marginalized groups.

When examining France's suboptimal compliance of article 5, France can continue to fall behind French universalism since the article is a non-discrimination article. It is therefore an article that focuses on individual rights that ought to be afforded to all regardless of minority status. French universalism suggests compliance with the article comes from the individual nature of it, so since France does not see a difference between anyone on the basis of race or

¹⁷¹ DDHC 1789.

¹⁷² Max Fisher, "What everyone gets wrong about Charlie Hebdo and racism," *Vox*, Jan 12, 2015, <https://www.vox.com/2015/1/12/7518349/charlie-hebdo-racist>

ethnicity, then France must be compliant with article 5. The problem is that this article would allow group identification, so a more inclusive form of universalism is unable to form since France asserts that it has already transcended the need for group identification.¹⁷³ Because it does not take racial demographic data, France does not have accurate prison statistics, crime statistics, racial wealth inequality statistics, etc. France can therefore feign compliance with article 5 since there is in effect no way to prove that France has racist policies. Even statistics like the ‘40% of incarcerated people are Muslims’ figure shown above can be disputed by France. And if it were true, the argument under French universalism would likely be that those individuals unfortunately just commit more crimes rather than the possibility of over policing in diaspora communities. Section 3.1 provides a strong rationale for why France’s argument of only *de facto* discrimination is weak; however, the possible argument for *de jure* compliance remains.

Finally, article 6 is pretty much not complied with at all, though France consistently asserts that its legal system is adequate in addressing complaints specifically related to racial discrimination.¹⁷⁴ French universalism asserts that all nationals have the same rights under the Republic, and that because of that anyone who has a complaint must be coming forward as an individual and not as a member of a systemically targeted group that experiences institutionalized and normalized racism. The holes in this type of argument are evident again in that the goal of the ICERD is to allow those members of minority groups to not only have the freedom to associate with their group as well as their national identity. Universalism does not mean homogeneity, but the state limits group identification such that all that is left in the public sphere in terms of collective identity is identifying with the French republican national identity.

¹⁷³ CERD 2018.

¹⁷⁴ United Nations, France: Banning the niqab; United Nations, Experts on the CERD condemn France.

Group criticism is undermined, collectives dismantled, and French universalism canonized as the dominant interpretation of human rights in the country.

Conclusion

Compliance with an international treaty is not the only way to measure a state's treatment of marginalized, minority, and minoritized communities. Nonetheless, this chapter showed that even while France ratified the ICERD sincerely, it still sub-optimally complies with the treaty. This chapter is aimed at providing an explanation for France's incomplete compliance, and in doing so French universalism's canonical nature was operationalized to provide part of that explanation. The chapter found that France has major holes in compliance that do not necessarily outweigh its overall compliance but do raise a certain level of concern. As asserted before, comprehensively reviewing compliance would be as massive undertaking, but even within the limited scope of this chapter large holes in four of the six provisional articles were shown in France's level of compliance. France may mostly comply with the ICERD as a whole, but where it falls short creates a demonstrable need for improvement and action.

Stopping short of saying France needs to uproot all of its canonical texts and fully recontextualize the French national identity, there are some obvious policy decisions France could make to move towards a fuller compliance with the treaty. First, France should rescind all laws that limit the religious expression of Muslims. This would bring France much closer to complete compliance with articles 2 and 5. Second, it should discontinue the policy of closing places of worship for religious minorities in the state. Third, France should allow for the taking of demographic data related to race and ethnicity. This would allow France to make focused

economic and infrastructure policy that can actually uplift marginalized communities instead of just ignoring that these groups and identities exist. Fourth, France should rescind its reservation on article 4 and make stronger limits on hate speech that especially focus on the media's dissemination of discriminatory propaganda that propagates xenophobic rhetoric. Finally, France needs to consider altering French universalism's interpretation to be tolerant to group identification such that the individuals in those groups do fully enjoy the rights of the rest of the French population.

Conclusion, Limitations, Implications, and Moving Forward

This thesis has examined France's role in the creation of the ICERD, the concept of group rights, what this thesis coins as French universalism, and France's compliance with the ICERD all with the goal to demonstrate that the French state is predisposed to incomplete compliance with the ICERD. The first chapter used the relevant historical context to explain France's role with the creation of the ICERD and why, optically, it could have been viewed as a strategic ratifier. It ended with a close textual analysis of the ICERD to demonstrate its centering of group rights. The second chapter is where this thesis positioned its biggest contribution: the concept of French universalism. The chapter rooted its discussion of French universalism in three canonical texts that then all build and scaffold on one another. It concluded that France's notion of universalism is antithetical to the concept of group rights outlined in the first chapter. This led to the argument of the final chapter which observed France's obligation level compliance of the ICERD, and then analyzed noncompliance through the lens of French universalism. It concluded that, while France is mostly compliant with the ICERD, there are multiple blind spots that France could address immediately to build a truer universalism. Thus, the thesis concludes that France (the state), in part as a result of French universalism, is predisposed to incomplete compliance with the ICERD. Further research could seek to answer why certain political figures aim to continue rhetoric surround the 'culture wars' as opposed to addressing policy that directly influences the lives of those in the country. Universality of human rights has been conceptually relevant for hundreds of years, so the recent hollowness of the term provides an interesting point of inquiry as well. Why is that universalism is pitted against anti-racism now when the two seemed to work hand in hand in the days of Satre and mass decolonization? Answering this would likely allow progress in dismantling this false dichotomy between the two.

So, if France is predisposed to noncompliance, does that then mean Blanquer and Macron are right? Does that mean universalism and anti-racism are truly diametrically opposed? It does not. France's interpretation of universalism as outlined in chapter 2 is coercively centered on national identity and the individual leaving very little consideration for group rights. The ICERD can be interpreted as universalistic in nature as it seeks to grant rights to those within a state that are marginalized and do not enjoy the same rights as the dominant group within member states. Simply put, universalism is not universal, and France has a unique interpretation of it that predisposes France specifically to incomplete compliance with treaties centered around group rights. While similar definitions of universalism could likely be applied to other states, French universalism is rooted in canonical texts that can only be threaded together in a French context. Discursive interpretations of universalism will conflict and there is a certain paradoxical relativity to the concept of universalism when applied in different contexts. France has the opportunity, however, to build towards a truly more universal form of human rights affording. Centering group identities as tolerated and supported communities such that they are not in a position of subordination to the dominant group under the cover of universalism, France would be actually complying with the intentions and obligations of the ICERD.

France is not fully compliant with the ICERD, and there are multiple immediate fixes that France could undertake to limit the level of noncompliance. However, the canonical French universalism has proven to be a strong aspect of national identity, such that it is the basis for much policy making, ideals surrounding human rights, and the problematic nonrecognition of group identities within the country's borders. A weak civil society in a state centric nation makes norms setting an intimidating affair. Simmons asserts that in order to truly mobilize for human rights, a strong and active civil society must back the movement, must be the mobilizing force,

must influence the state and government.¹⁷⁵ France stigmatizes group organization in its civil society, and even puts in place its own versions of civil society organizations that are actually organs of the state such as the *Conseil français du culte musulman* (CFCM). French universalism does not just come through in France's compliance with the ICERD, but the creation of it too. It sought to limit the strength of the ICERD, trying to assert more colorblind and restrictive version of universalistic ideals in the treaty building process. Mobilizing for human rights in France will always be a tall order if the state continuously asserts that it is colorblind and that it only recognizes individual identities. This nonrecognition of group rights needs to end in France if it is going to progress from its medias' and political elite's current obsession with '*wokisme*' and make actual policy that more fully complies with a treaty it ratified 52 years ago.

France itself is not a state with some authoritarian conspiracy that seeks to take complete control. There are, as there are in all European countries at this point, xenophobic ethno-nationalists that are gaining political prominence, but unlike Italy, France has been able to curb the right wing from gaining too much influence, but still the alt-right had a major moment in 2022's election in the second round—better than in 2017. Still, curbing the alt-right is a result of the people within the state, the voices of communities that wish to be uplifted and recognized. The populace votes, and if xenophobic nationalists are not in line with the various diaspora communities' desires, then they will (hopefully) continue to be curbed from gaining popular majority in the parliament. The ICERD's bounds stop at the borders, but French universalism still finds roots in national exceptionalism and this can in turn influence foreign policy. By rooting out some of the influence of French universalism within the state, potentially a more

¹⁷⁵ Beth A. Simmons, *Mobilizing for human rights: international law in domestic politics*, Cambridge University Press, 2009, p. 14

powerful civil society can form to better hold the French government accountable. Norms setting is in the hands of the civil society and the state, so the more power France's civil society gets, the more pressure can be put onto the state.

French universalism as a concept is an important and useful contribution to French studies. Its application can be used to demonstrate and explain many of its government's decisions as a result of the canonical nature of the concept. It is not determinant of everything that France does and has a limited scope even in the context of France's compliance with the ICERD because of the other factors that predispose France to incomplete compliance discussed at the beginning of the third chapter. Even so, it can still be applied in many different contexts including to other multilateral human rights treaties that France is party to. Moving forward, it would be useful to keep using this framework to contextualize and explain noncompliance such that direct action can be recommended to start the process of dismantling the coercive national identity that aims to subordinate group identities and center assimilation to French universalism. The ICESCR is likely the best treaty to analyze moving forward as it builds upon the protection of religious minorities within member states in a way that the ICERD simply could not get across in the subcommittee.

In the end, France has a lot of work to do to address the large holes in its compliance with the ICERD, but the work does not just fall on the shoulders of the state. Civil society needs to grow, strengthen, and hold the government accountable for inconsistent treatment across racial, ethnic, and religious lines. The right to associate, to assemble, and to speech still exist within the state as guaranteed by the DDHC. The CCIF may demonstrate the shocking ability of the French state to dismantle anti-discrimination groups, but the more groups that organize against the state's discriminatory policy, the less likely it will be able to dismantle them for illegitimate

reasons. Focusing on policy, not ‘culture wars’, is the best way to build coalitionary power in the civil society. Dismantling a coercive national identity looks radical, but it is necessary to actually achieve the universalism intended by the ICERD, especially those of its original post-colonial drafters. France has an international mandate to tolerate and support where necessary marginalized groups. It is time for France to step up and attempt to fully comply with the ICERD and reinvent French universalism in line with a truer sense of universalism.

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