Since no exclusion order has been made, it seems probable that any object of treasure which is of value or importance found in consecrated ground would now be treated in a similar manner. An object determined by the coroner to be treasure under the Act (whether or not it is treasure trove at common law) and not disclaimed would likewise first be offered to an available local church museum if the national museum did not wish to acquire it. Otherwise it would be offered to another local museum. But it cannot be said that the overall position is clear.

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A Veiled Threat: *Belcacemi and Oussar v Belgium*

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INTRODUCTION

The freedom of the individual can easily come into conflict with his or her obligation to integrate in society. The case of *Belcacemi and Oussar v Belgium* provides a good example.[1] It is evident that some restrictions of citizens' freedoms must be accepted for a state to function and, more basically, persist; as a consequence, it is acceptable that certain demands, incorporated in criminal law, are made of citizens. The issue of the extent to which such restrictions are justified has increasingly become a topic of discussion. The present case raises a number of important questions with respect to the right to wear a full-face veil in public if the societal norm is that the face should be visible, the most salient of which are whether women should be 'protected' from unequal treatment against their will and to what extent society may impose values on the individual. I will argue that Belgian law places unwarranted restrictions on citizens and that the values behind it testify to an outlook that is difficult to reconcile with the freedom of conscience and religion.

1 App No 37798/13 (ECtHR, 11 July 2017).

THE FACTS OF THE CASE

The applicants, Samia Belcacemi, a Belgian citizen, and Yamina Oussar, a Moroccan citizen, are Muslims who wear a niqab (a veil covering the face, with the exception of the eyes), stating that they do so of their own accord, on the basis of a religious conviction. Their complaint is directed at the prohibition on wearing apparel designed to cover the face in public, as this deprives them of the possibility to wear a full-face veil. The case bears a close resemblance to *Dakir v Belgium*, in which judgment was also handed down on 11 July 2017.[2]

The applicants indicate that they have always acted in accordance with the law, taking the veil off when they were obliged to do so, as, for example, when it was necessary that their identity be established by the authorities. Ms Belcacemi and Ms Oussar were fined in 2009 and 2011 respectively on the basis of a municipal police regulation, on account of having worn the veil in public. Ms Belcacemi contested her fine before the Police Tribunal of Brussels, which substituted an administrative fine for the police fine, ruling that the municipal police regulation violated Article 9 of the European Convention on Human Rights (ECHR). In 2011 (a month and a half after the first applicant had been fined), a new law came into force banning the wearing of apparel partly or fully covering the face.[3] Some exceptions were made, but not for a full-face veil. The applicants appealed to the Belgian Constitutional Court on 26 July 2011, arguing that the law should be annulled; their appeal was rejected.

The drafters of the law 'mean to subscribe to a model of society which makes the individual prevail over its cultural, philosophical or religious ties'.[4] Their assessment that face-covering attire should be banned was not solely based on considerations of public order: they also stressed the importance of 'living together' ('*vivre ensemble*'), which would be compromised if a true encounter between individuals could not be realised, not being able to meet each other (literally) face to face. According to this view, it is through the face that people's humanity is manifested.

The Belgian Constitutional Court pointed out that a number of fundamental values have prompted the legislator, with the purpose of integrating all citizens, to realise the ban: the right to life, the right to the freedom of conscience, democracy, the equality of men and women and the separation of Church and State. The Court considered that the ban conformed to Article 9 of the ECHR given the objectives pursued by the legislator – to wit, the aforementioned model of society and the individual's place in it – referring to the aforementioned

2 App No 4619/12 (ECtHR, 11 July 2017).
3 Article 563bis of the Belgian Penal Code.
4 *Belcacemi and Oussar* at para 18. The original text of the ruling is only available in French and reads 'entendaient souscrire à un modèle de société faisant prévaloir l'individu sur ses attaches culturelles, philosophiques ou religieuses'.

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fundamental values. The legislator's goals of securing public safety, equality between men and women, and 'living together' were judged legitimate. As for being 'necessary in a democratic society' and proportionate, the Court deemed that it is sometimes necessary to establish a citizen's identity for security reasons. The Court accepted the government's conception of 'living together', its focus on fundamental values and its view on the position of the individual in society, acknowledging that the individuality of a legal subject in a democratic society cannot be conceived if one's face cannot be seen. In addition, the dignity of women, which would, just like their liberty, be imperilled if they were pressured to cover their faces by members of their family or their community, must be protected.

The last argument cannot be used in cases of women who act on the basis of a religious conviction, but the importance of equality between the sexes legitimises state interference in that it may forbid a religious conviction being manifested by conduct irreconcilable with the principle of equality between men and women: the veil deprives women – the sole addressees of the prescription to wear it – of the possibility of establishing social contacts.

The applicants appealed to the European Court of Human Rights (ECtHR) on 31 May 2013, arguing that their right to respect for private and family life, freedom of thought, conscience and religion, and freedom of expression (Articles 8, 9 and 10 of the ECHR) had been violated, and that they had been discriminated against (Article 14). They criticised the Belgian government's position primarily on the basis that, even though it expresses the goal as being to realise 'living together' in a democratic society, openness and tolerance are jeopardised. In addition, women's freedom is, under the banner of 'dignity' and 'equality', curtailed. They also appealed to Articles 3, 5 and 11 with respect to minor issues.

The ECtHR considered that concern for the minimum requirements of life in society may be deemed part of the protection of the rights and freedoms of others and that the objective of guaranteeing the conditions for making 'living together' possible justifies imposing the restrictions in question. The prohibition is not deemed disproportionate to the aim pursued by the state. Article 14 was dealt with on account of the applicants' statement that the law shows evidence of indirect discrimination, the restrictions being more intrusive on Muslim women than on others. The ECtHR, while acknowledging that measures may have consequences that affect a specific group of people disproportionally, dismissed the objection on the basis of the presence of an objective and reasonable justification. The objections on the basis of Articles 3, 5 and 11 of the ECHR were also dismissed. The ECtHR unanimously held that there has been no violation of Articles 8, 9 and 14 and that no separate issue arose under Article 10.

THE PLACE OF A CITIZEN IN A LIBERAL DEMOCRATIC STATE

It is clear that a situation in which a woman is compelled (by her spouse or family, or the (sub)community to which she belongs) to wear a veil such as, in this case, a niqab contravenes several articles of the ECHR, as well as other conventions. Had this been a factor here, the case would presumably have been concluded relatively easily and not have raised serious debate. By contrast, the applicants said that they made the decision to wear the niqab on their own initiative[5] and their statements are presumed not to have been made under duress. Nor is the focus on the need to show one's face in specific circumstances, such as a necessary police control, since this was acknowledged by the applicants, having expressed their willingness to comply in such cases.[6] This affords me the possibility to focus exclusively on the conflicting *principles* at stake, which, from a legal point of view, provide the most relevant and interesting material.

The freedom of the individual is a crucial issue in this case. The Belgian Constitutional Court stresses the importance of the right to freedom of conscience as one of the fundamental values, but in the context of a common patrimony which they (purportedly) share.[7] Such a requirement is incompatible with freedom of conscience, especially if this freedom is to be considered one of those values.

The drafters of the Belgian law 'mean to subscribe to a model of society which makes the individual prevail over its cultural, philosophical or religious ties'.[8] Yet should not the individual be the proper party to decide to what extent such ties are to play a role in his or her life? An important consideration is that individuals may consider (part of) their identity to be *defined* by such ties. This means that (paternalistically) 'liberating' individuals from them may in fact be said to constitute a paradox, since it *limits* individuals' freedom.[9] At the same time, this model of society attests to ties of the state itself, namely, with respect to what it is to be an individual; since a state, being a construct rather than a sentient being, cannot hold opinions, it is in fact the majority of the people that uphold and impose views on the individual and his or her place in society. The Belgian government, as third-party intervener in *SAS v France*, indicated that those who wear a full-face veil thereby signalled 'that they did not wish to take an active part in society'.[10] It is not clear, however, on what basis such an obligation might rest. The criticism of such a position

5 *Belcacemi and Oussar* at para 6; *Dakir* at para 7.
6 *Belcacemi and Oussar* at para 6; *Dakir* at para 7.
7 *Belcacemi and Oussar* at para 27 (B 17).
8 Ibid at para 18.
9 See also C Joppke, 'Islam and the legal enforcement of morality' (2014) 43:6 *Theory and Society* 589–615 at 607; C Joppke, *The Secular State under Siege* (Cambridge, 2015), p 176.
10 *SAS v France*, App No 43835/11 (ECtHR, 1 July 2014), para 87.

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that 'it can hardly be argued that an individual has a right to enter into contact with other people, in public places, against their will' appears justified, and 'the right to be an outsider' should prevail.[11] The Belgian government apparently does not acknowledge such a right: 'The government emphasises that it is not for individuals to arrogate to themselves the power to decide, on the basis of their individual or religious freedoms, when to accept uncovering themselves in the public arena.'[12]

The veil admittedly makes it difficult to communicate in certain situations, which may be a legitimate reason for employers to forbid their employees from wearing religious symbols.[13] There is a difference, however, between allowing such measures, which may be said to be legitimate with the employer's perspective in mind, and banning the veil in the public arena: a difference which cannot be bridged on the basis of the consideration that 'the individuality of every legal subject in a democratic society cannot be conceived if one's face cannot be seen, which is a fundamental element thereof'.[14] Such a perspective on the legal subject is clearly *external*, in that the citizen is characterised from the point of view of society as a whole rather than on the basis of the individual citizen's own – or, in other words, *internal* – perspective. As a consequence, what is demanded from a person *as a citizen* is more than may be demanded if freedom of conscience is to be taken seriously and one may, somewhat dramatically, say that a person's recognition as a citizen is in peril of being compromised.

The Belgian Constitutional Court referred to the legislator's defence of

> a model of society in which the individual outweighs his or her philosophical, cultural or religious attachments so as to encourage the integration of

11 Ibid, joint partly dissenting opinion of Judges Nussberger and Jäderblom, para 8.

12 *Belcacemi and Oussar* at para 41. The original text reads, 'Le Gouvernement souligne qu'il n'appartient pas aux individus de s'arroger, à la faveur de leurs libertés individuelle ou religieuse, le pouvoir de décider quand ils accepteraient de se découvrir dans l'espace public.'

13 The Court has also considered the employer's wish to 'project a certain corporate image' to be a relevant factor (*Eweida and Others v the United Kingdom*, App Nos 48420/10, 59842/10, 51671/10 and 36516/10 (ECtHR, 15 January 2013), para 94), but takes a nuanced stance here, taking into consideration how conspicuous the symbol in question is (in this case, a cross necklace). In a Belgian case before the European Court of Justice (ECJ) (on the basis of a request for a preliminary ruling), involving an employee who had been dismissed, having refused to work without wearing a headscarf, the ECJ ruled: 'An employer's wish to project an image of neutrality towards customers relates to the freedom to conduct a business that is recognised in Article 16 of the Charter and is, in principle, legitimate, notably where the employer involves in its pursuit of that aim only those workers who are required to come into contact with the employer's customers' (*Samira Achbita and Centrum voor gelijkheid van kansen en voor racismebestrijding v G4S Secure Solutions NV* (ECJ, 14 March 2017) (C-157/15), para 38). This does not derogate from the employer's duty to investigate the possibility of offering an employee who wants to wear a headscarf a position where she would not have any visual contact with customers (para 43).

14 *Belcacemi and Oussar* at para 27 (B 21). The original text reads 'L'individualité de tout sujet de droit d'une société démocratique ne peut se concevoir sans que l'on puisse percevoir son visage, qui en constitue un élément fondamental.'

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> all people and enable citizens to share a common heritage of fundamental values, namely, the right to life, the right to freedom of conscience, democracy, the equality of man and woman and the separation of Church and State.[15]

It is important to determine which conception of 'democracy' (one of the values mentioned) is adhered to. Essentially, two positions can be taken: procedural democracy, which, simply put, considers the view expressed by the majority of the people (or its representatives) to be decisive irrespective of the contents of this view; and substantive democracy, which consists of an amalgam of the majority view and certain values (specifically those mentioned in the present case) considered to be essential for a democratic state to exist or persist.

One of the main problems involved with the choice of the second of these interpretations of 'democracy' is that it is difficult to see why those values should be considered 'fundamental' and particularly why democracy itself should be considered one of them. (If 'democracy' is interpreted as 'substantive democracy', its appearance in the list of values seems redundant, since the other values are listed alongside it.) By contrast, if the majority vote is decisive, the values that serve as directives may, at least in principle, be exchanged for others every time a new majority is formed.

On the one hand, the ECtHR seems to interpret 'democracy' as procedural democracy, referring to 'an established consensus' as the decisive criterion to decide the value of 'open interpersonal relationships', on the basis of which the importance of an uncovered face in social interaction is evaluated.[16] On the other hand, the substantive democracy interpretation is evinced in the statement that 'democracy does not simply mean that the views of a majority must always prevail'.[17] This stance is important for the evaluation of this ruling.

The status of equality as a value will presumably raise relatively little discord and, regardless of one's views on the tenability of equality as a *moral* value, the equal treatment of men and women as a *legal* imperative is not a source of serious debate.[18] Still, the idea of 'equal treatment' is ambiguous, even if only

15 Ibid at para 27 (B 17). The original text reads 'un modèle de société qui fait prévaloir l'individu sur ses attaches philosophiques, culturelles et religieuses en vue de favoriser l'intégration de tous et faire en sorte que les citoyens partagent un patrimoine commun de valeurs fondamentales que sont le droit à la vie, le droit à la liberté de conscience, la démocratie, l'égalité de l'homme et de la femme ou encore la séparation de l'Église et de l'État'.

16 *SAS v France* at para 122.

17 Ibid at para 128. See also, eg, *Refah Partisi and Others v Turkey*, App Nos 41340/98, 41342/98, 41343/98 and 41344/98 (ECtHR, 13 February 2003), paras 25, 82, 99.

18 The status of 'dignity', by contrast, *is* problematic, as its presence forces those who defend it to take an ethical and even metaphysical perspective, which usually engenders more problems than it solves. A discussion of this issue would stray too far from the topic at hand; I refer to my treatment of it elsewhere (J Doomen, 'Beyond dignity' (2016) 57 *Archiv für Begriffsgeschichte* 57–72).

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formal equality is considered, as readily becomes apparent in the present case. The Belgian Constitutional Court stated:

> Even if the wearing of the full-face veil is the result of a deliberate choice on the part of the woman, the principle of gender equality, which the legislature has rightly regarded as a fundamental value of democratic society, justifies the opposition by the State, in the public sphere, to the manifestation of a religious conviction by conduct that cannot be reconciled with this principle of equality between men and women.[19]

What is at stake is apparently *not* the issue of unequal treatment (let alone suppression) of women by men – since the Belgian Constitutional Court makes it clear that what it states applies if the woman takes the initiative to wear a niqab – but rather the principle of equality. One may wonder if the scope of the principle should be so wide as to cover even this situation. Ironically, such an interpretation may be said to attest to a paternalistic stance. The real issue is whether a woman voluntarily wears a veil. It is not for the state to decide what women should think and, in particular, what their view on 'equality' should be, and it should limit itself to protecting them from manifestations (resulting from worldviews with which they do not agree) which they resent having thrust upon them, a situation which differs from the one in the present case.

In addition, this outlook paradoxically presupposes the unequal position of women vis-à-vis men, as if women were unable to make the deliberate choice to wear a veil, in contradistinction to men.[20] The issue is, of course, moot, insofar as men wearing a similar veil is not under discussion, and the fact that many women who wear a veil are in fact forced to do so (presuming that this is true) by their spouses or others is a serious problem. However, since the Belgian Constitutional Court presents its arguments in terms of *principle*, it would be inconsistent to substitute a pragmatic stance for a principled one at this point, and the Belgian Constitutional Court should have made it clear why the fact that covering her face, thus actually minimising her options to establish social contacts, detracts from a woman's equality.

The idea of 'living together', the observance of which was one of the considerations of the drafters of the Belgian law prohibiting the veil, merits special attention.[21] As expressed by the concurring opinion of Judge Spano, the

19 *Belcacemi and Oussar* at para 27 (B 23). The original text reads 'Même lorsque le port du voile intégral résulte d'un choix délibéré dans le chef de la femme, l'égalité des sexes, que le législateur considère à juste titre comme une valeur fondamentale de la société démocratique, justifie que l'État puisse s'opposer, dans la sphère publique, à la manifestation d'une conviction religieuse par un comportement non conciliable avec ce principe d'égalité entre l'homme et la femme.'

20 See ibid at para 36 and also *Dakir v Belgium* at para 34.

21 *Belcacemi and Oussar* at para 18.

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principle of 'living together' cannot be derived from the ECHR, it is far-fetched and vague, it is difficult to see which rights of others may be inferred from it and it is tantamount to a 'majority morality' ('*moralité majoritariste*').[22]

As the ECtHR stated with respect to the French situation, having expressed that it considered the voluntary and systematic concealment of the face incompatible with the ideal of 'living together' in French society:

> It . . . falls within the powers of the State to secure the conditions whereby individuals can live together in their diversity. Moreover, the Court is able to accept that a State may find it essential to give particular weight in this connection to the interaction between individuals and may consider this to be adversely affected by the fact that some conceal their faces in public places . . .[23]

It is questionable, though, whether a state may force its citizens to abide by the standard of 'living together', and whether such an outcome may be realised on such a basis. Should citizens not be allowed to interact with others to the extent that they themselves deem desirable, and should their duties not be limited to refraining from harming others (excepting such cases as the duty to make an effort to find employment if one receives unemployment benefits)?

The Court speaks of the principle of 'living together' as a constituent part of the choice of society,[24] and the choice is in this case made (by the state) *for* the citizens rather than *by* all of them (or at least a majority). To be clear: what is at stake is not a democratic decision on the basis of which the majority have expressed their consent to a certain model of society, but rather a presupposition at a more fundamental level, involving the very nature of the state. I remarked above that any view held by the state is in fact a majority view. In this case, however, the very nature of the state is at stake, which is apparently considered fundamental in the sense that even a contrary majority vote cannot affect it.

One wonders what would be the value (both in practical terms and as a matter of principle) of such a perspective once it has been abandoned by a (qualified) majority. In the case of France, the explanatory memorandum to the bill which resulted in the law prohibiting the veil (Law no 2010-1192) contains the following passage:

> France is never as much itself, faithful to its history, its destiny, its image, as when it is united around the values of the Republic: liberty, equality,

22 Ibid, concurring opinion of Judge Spano, paras 5–7.
23 *SAS v France* at para 141.
24 Ibid at para 153. The Court used the phrase 'un choix de société' in *Belcacemi and Oussar* (at para 53), without in that place explicitly referring to 'living together'.

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> fraternity. These values form the cornerstone of our social covenant; they guarantee the cohesion of the Nation; they underpin the principle of respect for the dignity of individuals and for equality between men and women.[25]

The presumption that the social covenant encompasses the value of 'living together', as well as the values just mentioned, is further evidence of the conflation of the minimum requirements for a *state* to exist (and persist) and a model of *society* that may not be considered by every citizen to be ideal. Should the choice of society, which is either the result of a majority decision or an amalgam of a number of values accepted by it, be imposed on citizens whose values conflict with it? This is more demanding than what may be inferred from a social covenant, and raises the question whether it is justified to demand from citizens that they adopt a certain outlook on society, a question that I would answer in the negative.

A special issue to consider is whether *laïcité* (the principle of the separation of Church and State) is a constitutional principle.[26] Belgium arguably differs in this respect from France.[27] In any event, however one may value the separation of Church and State, it is important, if such a separation is to be upheld, to define what one means by 'state'. If this separation serves as the criterion to ban (inter alia) niqabs from the public space, it appears that the domain in which the principle is supposed to apply extends to citizens' individual lives. On the basis of the principle of *laïcité*, one may arguably, for instance, forbid judges or police officers to exhibit religious symbols, as they are supposed to represent the state. Upholding such a rigorous standard for citizens *not* acting in such a capacity (such as the applicants in the case in hand) appears to extend the reach of this principle in an unwarranted manner.

Should the separation of Church and State *not* be taken into consideration and practised, in the most extreme case the worldview of the state will dispel that of the individual who, if the separation were upheld, would not concur with that worldview. The state, being an abstract entity, does not actually hold opinions, and attributing (world)views to it is only possible by resorting to a legal fiction. In practice, any view held by the state is, as was outlined above, in the case of a democratic state the view of the majority, a conclusion that even those subscribing to a substantive conception of democracy cannot ultimately evade. After all, as mentioned above, substantive democracy is basically an

25 The original text reads 'La France n'est jamais autant elle-même, fidèle à son histoire, à sa destinée, à son image, que lorsqu'elle est unie autour des valeurs de la République: la liberté, l'égalité, la fraternité. Ces valeurs sont le socle de notre pacte social; elles garantissent la cohésion de la Nation; elles fondent le respect de la dignité des personnes et de l'égalité entre les hommes et les femmes.'

26 *Dakir v Belgium* at paras 11 and 32.

27 Ibid at para 36.

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amalgam of the majority view and certain values; once a conflict between the two elements arises, however, this model is put to the test.

Suppose that the majority seeks to pass legislation conflicting with the principle of the equality between men and women. Should the majority opinion prevail or not? If it should, substantive democracy turns out to be nothing more than 'window dressing', with values not being taken seriously at the very moment when their significance is questioned, meaning that substantive democracy is effectively the same as procedural democracy. If the majority opinion should not prevail, then certain values must apparently be acknowledged even if most (or even all) people do not so acknowledge them. This means that another basis for the acknowledgment of such values would be needed. Should this be forthcoming from religion, or perhaps ethics? The separation of Church and State is, *ex hypothesi*, not an issue here, so neither religion nor ethics would pose a problem at this point. Still, the basis for an ethical or religious outlook cannot remain unquestioned, especially if this is to be defended against the people. In the case of a religious outlook the difficulties are not hard to fathom, but an ethical perspective requires just as much justification, if only on account of the presence of various conflicting perspectives, in which respect ethics and religion do not differ.

Space for the view of someone who does not concur with the position of the state might be thought to be greater if the separation of Church and State is, by contrast, upheld. This is true if the state's influence is sufficiently restricted. If it is *not*, however, the outcome is precisely one that the ECHR was created to avoid: one of the applicants has indicated that she no longer leaves her house, while the other no longer feels comfortable in public.[28]

CONCLUSION

The question of what may reasonably be expected from a citizen permeates this ruling. Restrictions on citizens' freedom for the sake of everyone's safety, including their own – manifested in the duty to reveal one's face in specific circumstances – and for the sake of realising the equal treatment of every citizen are justifiable, but these are not the vital elements of the case. Rather, the case is focused on the citizen's place in society. The crucial question is whether one prefers a 'minimal state' (according to which nothing is demanded from the citizen save for the duty to abstain from actions that harm others and the duty to pay taxes) or a 'communitarian' one, that is a state in which the difference between state and society has faded or even disappeared (according to which more than the minimum just outlined is demanded, namely, the recognition

28 *Belcacemi and Oussar* at paras 9–10.

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of certain values in society and the willingness to act in accordance with them). The outcome of the present case may be welcomed by those who propagate the second conception and disapproved by those who dismiss it. I have tried to show that the freedom of conscience and religion is difficult to reconcile with the second conception. In the case under discussion, citizens' freedoms are compromised with an appeal to supposedly justificatory measures to include them in society. The guise of such measures makes the threat, ironically, a veiled one.

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A Way Out of *Laïcité*? The Child's Best Interests as Justification for Religious Manifestation

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Keywords: freedom of manifestation, child's best interests, *laïcité*, France, education

Over the last couple of years, France has built up the reputation of a staunchly secular society where, slowly but surely, signs of religious manifestation are being removed from the public space with an appeal to *laïcité* (French secularism) and other French values.[1] This is why it came as a surprise that, after a long list of unsuccessful religious manifestation cases,[2] in August 2017 the Dijon Administrative Tribunal ruled against a municipality that had decided no to longer accommodate Muslim and Jewish dietary prescriptions in school canteens.[3] The reason for the sudden change appeared to be the approach taken in the relevant case: rather than basing itself on freedom of manifestation,

1 See M Hunter-Henin, 'Why the French don't like the burqa: *laïcité*, national identity and religious freedom', (2012) 61:3 *International and Comparative Law Quarterly* 613–639; J Baubérot, *Les 7 Laïcités françaises: le modèle français de laïcité n'existe pas* (Paris, 2015), pp 133–150.

2 These cases have often centred on the right to wear religious attire in schools, at work, in public generally and most recently on the beach (Cour Administrative d'Appel de Marseille, req 17MA01337, 3 July 2017), but others have, eg, been concerned with ritual slaughter, such as Conseil d'État, 8th Chamber, req 391499, 13 March 2017.

3 Tribunal Administratif de Dijon, *Décision de la ville de Chalon-sur-Saône concernant les menus de substitution dans les cantines scolaires*, req 1502100, 1502726, 28 August 2017, available at <http://dijon.tribunal-administratif.fr/content/download/109427/1101437/version/1/file/1502100%2C%201502726.pdf>, accessed 31 October 2017 (hereafter TA Dijon, *Décision Chalon-sur-Saône*).