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Beyond the Paris Attacks: Unveiling the War Within French Counterterror Policy

Khaled A. Beydoun
University of California Berkely, kbeydoun@gmail.com

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ARTICLES

BEYOND THE PARIS ATTACKS: UNVEILING THE WAR WITHIN FRENCH COUNTERTERROR POLICY

KHALED A. BEYDOUN[*]

The Paris Attacks of November 13, 2015, left an indelible mark on France's culture war with Islam and are poised to permanently reform the identity of French counterterrorism policy. Since the beginning of the Jacques Chirac Administration in 1995, the State has maintained a hardline cultural assimilation campaign as the foundation of its counterterror program. This campaign culminated in 2004 with the "Headscarf Ban," and six years later—under President Nicolas Sarkozy—the enactment of the "Face Concealment Ban."

The emerging threat of "homegrown radicalization" shifted the State's focus from an assimilationist policy to Countering Violent Extremism (CVE) Policing in 2012. This counterterror approach, employed in the United States, the United Kingdom, and some European states, is facilitated by building inroads within Muslim communities and developing the social capital within them to enhance on-site monitoring, electronic surveillance, and symbiotic collaboration as the fulcrum of policing and preventing radicalization. The hardline cultural assimilation approach employed by France, however, undermines advancement of these vital CVE Policing goals, ultimately curbing its effectiveness.

First, this Article analyzes the strategic tensions between the cultural assimilation counterterror philosophy, championed by Chirac and Sarkozy, and the emergent CVE Policing paradigm. Second, it proposes that the State's

* Associate Professor of Law, *University of Detroit Mercy School of Law*, Senior Affiliated Faculty, *University of California-Berkeley*, Islamophobia Research & Documentation Project (IRDP).

interest in advancing its counterterrorism goals requires retrenching hardline cultural assimilation policies. Dissolution of such policies, most notably the Headscarf and Face Concealment Bans, is a vital step toward implementing a sustainable and effective CVE Policing program.

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Introduction

"France is at war! Perhaps. But against whom or what?"
—Olivier Roy[1]

"And because the lights of Paris epitomize cultural secularism for the world and thus 'ignorance of divine guidance' [for ISIS], they must be extinguished . . . ."
—Scott Atran and Nafees Hamid[2]

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1. *France's Oedipal Islamist Complex*, FOREIGN POL'Y (Jan. 7, 2016), http://foreignpolicy.com/2016/01/07/frances-oedipal-islamist-complex-charlie-hebdo-islamic-state-isis [hereinafter Roy, *France's Oedipal Islamist Complex*].
2. *Paris: The War ISIS Wants*, N.Y. REV. OF BOOKS (Nov. 16, 2015, 10:30 AM), http://www.nybooks.com/daily/2015/11/16/paris-attacks-isis-strategy-chaos/.

Clichy-sous-Bois, known as the City of Lights, is the darker side of
Paris. On the far eastern end of the city lies France's "most
notorious" ghetto; the cradle of the demographic threat currently
gripping the nation's imagination.[3] The city offers a rugged and
lurid portrait of the isolation plaguing France's Muslim citizens: a
second city on the fringes, where young girls in headscarves zigzag
past elderly patriarchs donning beards and *kufis*,[4] all treading atop
the very same concrete that spawned France's most explosive riots
more than a decade ago.[5]

Clichy-sous-Bois is simultaneously inside and outside of France:
although a French suburb, it is perceived as a breeding ground for
homegrown radicalism and extremism. It is a liminal space where
culture wars with Islam are fought, ground zero for the proliferating
war against Muslim radicals. As one of many French Muslim
communities that embody the State's most intimate and existential
fears, Clichy-sous-Bois sourced several of the culprits involved in the
Paris Attacks of November 13, 2015.[6]

On November 13, 2015, shortly after 9:00 PM, "[t]hree teams of
Islamic State attackers acting in unison carried out the terrorist
assault in Paris," ultimately killing 130 people and wounding 352
others.[7] The site of the first attack was an international soccer match
between the French National Team and Germany at the *Stade de*

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3. *See French Police Trial Over 2005 Zyed and Bouna Deaths*, BBC NEWS (Mar. 16,
2015), http://www.bbc.com/news/world-europe-31903676 [hereinafter *French Police
Trial*] (noting that Clichy has "long been seen as [a] breeding ground[] for political
and religious extremists").

4. Kufis are skull caps worn by Muslim men, particularly during prayer, as a sign of
respect. Robert K. Robinson et al., *The Hijab and the Kufi: Employer Rights to Convey Their
Business Image Versus Employee Rights to Religious Expression*, 22 S.L.J. 79, 80–81 (2012).

5. *See* Angelique Chrisafis, *"Nothing's Changed": 10 Years After French Riots,
Banlieues Remain in Crisis*, GUARDIAN (Oct. 22, 2015, 5:11 AM),
http://www.theguardian.com/world/2015/oct/22/nothings-changed-10-years-after-
french-riots-banlieues-remain-in-crisis [hereinafter Chrisafis, *Nothing's Changed*]
("Despite years of emergency assistance, residents of the suburbs that erupted into
violence in 2005 are still waiting for things to improve.").

6. Anna Maria Tremonti, *After Paris Attacks, Muslim Residents in Clichy-sous-Bois
Face Heightened Scrutiny*, CBC: CURRENT (Nov. 17, 2015), http://www.cbc.ca/radio/
thecurrent/the-current-for-november-17-2015-1.3322358/after-paris-attacks-muslim-
residents-in-clichy-sous-bois-face-heightened-scrutiny-1.3322364.

7. Adam Nossiter et al., *Three Teams of Coordinated Attackers Carried Out Assault on
Paris, Officials Say; Hollande Blames ISIS*, N.Y. TIMES (Nov. 14, 2015),
http://www.nytimes.com/2015/11/15/world/europe/paris-terrorist-attacks.html;
Associated Press, *Paris Attacks Death Toll Rises to 130*, HUFFINGTON POST: WORLDPOST
(Nov. 20, 2015, 10:47 AM), http://www.huffingtonpost.com/entry/paris-attack-
death-toll_us_564f3f7ee4b0d4093a57517f.

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France, attended by President Francois Hollande.[8] Subsequently, the attackers bombed multiple popular restaurants and cafes, and the conspiracy concluded with several explosions at the famed Bataclan concert venue.[9] Though the 11/13 Paris Attacks came on the heels of the January 7, 2015, Charlie Hebdo Attacks, because the 11/13 Attacks produced tenfold more victims,[10] some refer to it as "France's 9/11."[11]

The Paris Attacks were, collectively, France's deadliest terror attack and a critical existential impasse for the State. They compelled President Hollande and his administration to make policy decisions that have had, and will continue to have, deep cultural and counterterror ramifications well beyond the horror of 11/13.[12] Minutes after 11/13, the State heightened its urgency to combat homegrown Muslim "radicalization" within France.[13] The identity of the culprits, combined with the Republic's ongoing struggle with Islam, led the State to frame the 11/13 Attacks as a symbol of

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8. Sam Borden, *As Paris Attacks Unfolded, Players and Fans at Soccer Stadium Remained Unaware,* N.Y. TIMES (Nov. 14, 2015), http://www.nytimes.com/2015/11/15/world/europe/stade-de-france-paris-soccer.html.

9. *See* Alexandra Zavis, *"We Are Stronger Than They Are": First Paris Cafe Reopens After Terrorist Attack,* L.A. TIMES (Dec. 7, 2015, 3:00 AM), http://www.latimes.com/world/europe/la-fg-paris-attack-sites-20151207-story.html (describing the aftermath of the attacks); *see also* FR. 24 ENGLISH, *Deadly Paris Attacks Coordinated By Three Teams of Terrorists,* YOUTUBE (Nov. 14, 2015), https://www.youtube.com/watch?v=4x39hA8V MWo (noting that the attacks were coordinated).

10. Khaled A. Beydoun, *Muslims in the News Only When They're Behind the Gun,* AL JAZEERA (Jan. 9, 2015, 7:33 AM), http://www.aljazeera.com/indepth/opinion/2015/01/muslims-france-charlie-hebdo-me-201518121649556792.html (highlighting the twelve deaths suffered in the Charlie Hebdo attacks).

11. Ian Hanchett, *Ian Bremmer: "I Fear" "You'll See Increasingly Large Amounts of Xenophobia and Populism" After Paris Attacks,* BREITBART (Nov. 13, 2015), http://www.breitbart.com/video/2015/11/13/ian-bremmer-i-fear-youll-see-increasingly-large-amounts-of-xenophobia-and-populism-after-paris-attacks (quoting Ian Bremmer, the president of an international political risk research and consulting firm).

12. *See, e.g.,* ALEXANDRA DE HOOP SCHEFFER ET AL., THE GERMAN MARSHALL FUND OF THE U.S., AFTER THE TERROR ATTACKS OF 2015: A FRENCH ACTIVIST FOREIGN POLICY HERE TO STAY? 1 (2016), http://www.gmfus.org/file/7998/download (discussing how France's shifts in foreign policy following the 11/13 Attacks will increase its reliance on U.S. military leadership in the Middle East and North Africa); *see also infra* Section III.A (discussing the impact of hardline assimilationist policies).

13. Radicalization is the process by which an individual adopts an extremist ideology linked to terrorism. *See* Amna Akbar, *Policing "Radicalization",* 3 U.C. IRVINE L. REV. 809, 811 (2013) [hereinafter Akbar, *Policing "Radicalization"*]. Although not explicitly associated with Islam, the term has been linked to Muslims, and counter-radicalization efforts are primarily focused on Muslim communities. *Id.*

increased radicalization within the "French Muslim community."[14] The heightened urgency from the immediate wake of the November Attacks moved President Hollande to declare, "To all those who have seen these awful things, I want to say we are going to lead a war which will be pitiless."[15]

Although France does not keep an official demographic tally of its religious groups,[16] a Pew Research Center study estimated the French Muslim population was approximately 4.7 million in 2010.[17] At nearly eight percent of its aggregate polity, Islam is France's second largest religion,[18] and its Muslim population ranks as one of the biggest in Europe.[19] Consequently, the rising demographic, coupled with

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14.   *See* Nora Fellag, *The Muslim Label: How French North Africans Have Become "Muslims" and Not "Citizens"*, 13 J. ON ETHNOPOLITICS & MINORITY ISSUES IN EUR. 1, 3–4 (2014) (arguing that the conflation of France's significant Arab and Berber populations, particularly from Algeria, has resulted in the framing of France's Muslim community as monolithic, while in reality it is not a consolidated community at all). For a comparative analysis of how formative immigration law and court decisions in the United States from 1790 through 1952 viewed Arab and Muslim identity as interchangeable, see generally Khaled A. Beydoun, *Between Muslim and White: The Legal Construction of Arab American Identity*, 69 N.Y.U. ANN. SURV. AM. L. 29 (2013) [hereinafter Beydoun, *Between Muslim and White*].

15.   Swati Sharma, *"It Is Horror": French President Hollande's Remarks After Paris Attacks*, WASH. POST: WORLDVIEWS (Nov. 13, 2015), https://www.washingtonpost.com /news/worldviews/wp/2015/11/13/it-is-horror-french-president-hollandes-remarks-after-paris-attacks/.

16.   Bruce Crumley, *Should France Count Its Minority Population?*, TIME (Mar. 24, 2009), http://content.time.com/time/world/article/0,8599,1887106,00.html.
Moreover, the National Assembly has removed the words "race" and "racial" from the French Penal Code. *See* Khaled A. Beydoun, *The French Kiss "Race" Goodbye*, AL JAZEERA (June 2, 2013), http://www.aljazeera.com/indepth/opinion/2013/06/ 20136273349196523.html [hereinafter Beydoun, *French Kiss Race Goodbye*] (analyzing the legislation and its impact on French Muslims).

17.   Conrad Hackett, *5 Facts About the Muslim Population in Europe*, PEW RES. CTR. (July 19, 2016), http://www.pewresearch.org/fact-tank/2016/07/19/5-facts-about-the-muslim-population-in-europe/.

18.   *Id.*; Deborah Potter, *French Secularism*, PBS: RELIGION & ETHICS NEWSWEEKLY (June 24, 2011), http://www.pbs.org/wnet/religionandethics/2011/06/24/june-24-2011-french-secularism/9037 (attributing France's growing Muslim population partially to the births of children and grandchildren of immigrants from Algeria in the 1960s).

19.   Hackett, *supra* note 17. I use the description "Muslim" in this Article as a broad demographic term, not merely as a religious identity. *See* Olivier Roy, *Islamic Terrorist Radicalisation in Europe*, in EUROPEAN ISLAM: CHALLENGES FOR PUBLIC POLICY AND SOCIETY 52, 60 (Samir Amghar et al. eds., 2007) [hereinafter Roy, *Islamic Terrorist Radicalisation*] (acknowledging that a "Western" Islam is a *voluntary* faith community).

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France's colonial history and modern "culture war" with Islam,[20] conflates fear of radicalization with Islam, manifested by and executed against its established and still growing French Muslim citizenry.[21]

French fear of Muslim radicalization is not only shaped by religion but also race and gender. In line with embedded "Orientalist" tropes and modern caricatures,[22] fear of Muslim violence takes on a specifically masculine and "Arab" form.[23] Today, the bearded and brooding recruit of the Islamic State in Iraq and Syria (ISIS)[24] occupies the primary discursive conception of the Muslim terrorist.[25]

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20. For a historical account of the link between French colonialism and the current era of domestic terrorism, see generally ANDREW HUSSEY, THE FRENCH INTIFADA: THE LONG WAR BETWEEN FRANCE AND ITS ARABS (2014).

21. *See* Claire Adida et al., *Terror in France: Implications for Muslim Integration*, WASH. POST: MONKEY CAGE (Jan. 14, 2015), https://www.washingtonpost.com/blogs/monkey-cage/wp/2015/01/14/terror-in-france-implications-for-muslim-integration (suggesting that recent terror attacks in France will only reinforce the "irrational" association between Islam and radicalization).

22. *See generally* EDWARD W. SAID, ORIENTALISM (1978) (examining how the West has framed the Arab and Muslim world as "The Orient," which is normatively antithetical to the esteemed values associated with Europe and the United States, dubbed "The Occident"). "We are witnessing the redeployment of old Orientalist tropes," which saliently shape modern conceptions of terrorist threats. Leti Volpp, *The Citizen and the Terrorist*, 49 UCLA L. REV. 1575, 1586–91 (2002); *see also* Beydoun, *Between Muslim and White, supra* note 14 (addressing how these tropes shaped Arab American identity).

23. The term "Arab" here is in line with its discursive and political application in France, which encompasses Arabs, Amazigh, and Berber populations from the "Maghreb," Turks, and other groups stereotyped under the Arab banner. Although a sizable percentage of Muslims in France are Black (specifically, Sub-Saharan African), they are excluded from the bona fide Muslim classification. *See generally* Khaled A. Beydoun, *Antebellum Islam*, 58 HOW. L.J. 141 (2014) (examining the erasure of Black Muslim identity in America partly as the result of the conflation of Muslim-American identity with Arab-American identity).

24. ISIS is an anti-Western militant group seeking to create an independent Islamic state in the Middle East. Nick Thompson et al., *ISIS: Everything You Need to Know About the Rise of the Militant Group*, CNN (Feb. 10, 2015, 11:59 AM), http://www.cnn.com/2015/01/14/world/isis-everything-you-need-to-know (explaining the history, leadership structure, and controlled territories of ISIS).

25. The overwhelming majority of Muslim terror culprits and state targets are men, but females have not escaped scrutiny. For instance, Hasna Aitboulahcen, the 26-year-old who claimed to be the cousin of Abdelhamid Abaaoud and the suspected head of the 11/13 Paris Attacks, was initially believed to have "detonated a suicide vest as police stormed an apartment . . . as part of the search for those responsible for planning and executing the attacks"; however, while neighbors suggest she claimed to be a jihadi, police no longer suspect that she was responsible for the bombing. Emaneulle Saliba et al., *Paris Attacks: Who Was the Woman Killed in Terror Raid?*, NBC NEWS (Nov. 20, 2015, 1:13 PM), http://www.nbcnews.com/storyline/paris-terror-attacks/who-was-female-paris-suicide-bomber-n466626.

French "counter-radicalization" efforts,[26] in line with this masculine conception of the Muslim terrorist, are almost entirely dedicated to policing and prosecuting suspects who fit within this profile.[27]

While Countering Violent Extremism (CVE) policing focuses on the symbolic Arab Muslim male terrorist, the cultural assimilationist policy punishes Muslim women by disparately infringing upon their religious freedoms.[28]   In 2004, the French Parliament infamously banned the Muslim headscarf, or *hijab*,[29] as part of an effort to secularize France's Muslim population.[30] Copycat legislation, within and beyond Europe, followed France's "Headscarf Ban,"[31] which the French held as the lynchpin of its cultural assimilation campaign to reform Islam and referee Muslim identity within France,[32] combatting terror and preventing radicalization.

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26. *See* Samuel J. Rascoff, *Establishing Official Islam? The Law and Strategy of Counter-Radicalization*, 64 STAN. L. REV. 125, 126–27 (2012) ("[T]he core intuition behind counter-radicalization is that the prevention of future violence requires official involvement in shaping the ideational currents that are thought to underpin that violence.").

27. *See generally* NAOMI DAVIDSON, ONLY MUSLIM: EMBODYING ISLAM IN TWENTIETH-CENTURY FRANCE (2012) (analyzing sociologically how Muslim identity is conflated with Arab and Maghrebi identity, and how Islam is radicalized along lines of attendant ethnic caricatures to drive counterterrorism measures).

28. Ellen Wiles, *Headscarves, Human Rights, and Harmonious Multicultural Society: Implications of the French Ban for Interpretations of Equality*, 41 LAW & SOC'Y REV. 699, 704 (2007) (highlighting the State's notion that if one Muslim woman were to be uprooted from her culture, the rest would, too, fall to assimilation).

29. *Hijab* directly translates to "barrier" or "partition," though it stands for the broader concept of modesty in behavior and dress. *Hijab*, BBC (Mar. 9, 2009), http://www.bbc.co.uk/religion/religions/islam/beliefs/hijab_1.shtml.   The most common form of *hijab* is the headscarf worn by Muslim women, though it also encompasses the practice of completely covering the body except for the hands, face, and feet. *Id.*

30. Jon Henley, *French MPs Vote for Veil Ban in State Schools*, GUARDIAN (Feb. 11, 2004, 3:35 AM), http://www.theguardian.com/world/2004/feb/11/schools.scho olsworldwide; *see also France: Headscarf Ban Violates Religious Freedom*, HUM. RTS. WATCH   (Feb.   26,   2004,   7:00   PM),   https://www.hrw.org/news/2004/ 02/26/france-headscarf-ban-violates-religious-freedom   (explaining   that   the headscarf ban disproportionately impacts Muslim women and girls).

31. European nations observing some type of headscarf ban include Belgium, Turkey, and Denmark, in addition to some German, Italian, and Spanish cities, and bans have been proposed in others. *The Islamic Veil Across Europe*, BBC NEWS (July 1, 2014), http://www.bbc.com/news/world-europe-13038095; *see* Sabrina Tavernise, *Turkey's High Court Overturns Headscarf Rule*, N.Y. TIMES (June 6, 2008), http://www.nytimes.com/2008/06/06/world/europe/06turkey.html (reporting that Turkey's high court rejected an amendment lifting the headscarf ban at universities because it would go against the constitutional principle of secularism).

32. France's commitment to "reform" Islam is reflected by its establishment in

Ten years later, following a string of terror attacks throughout Europe and on French soil,[33] the French Parliament responded by passing a "Face Concealment Ban," outlawing the *niqab* or Islamic face concealment.[34] After its passage, the ban was immediately challenged on religious liberty grounds; however, the European Court of Human Rights upheld the Face Concealment Ban in July 2014, partially citing rising national security concerns.[35] Like its predecessor, the Face Concealment Ban was another step towards the State's attempt to secularize Islam[36]—a foundational principle enshrined in its Constitution.[37]

In France, cultural assimilation and counterterrorism policy do not merely overlap, they are practically synonymous for the Muslim population.[38] The Headscarf and Face Concealment Bans, which

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2002 of the *Institut des cultures d'Islam* (ICI), which is committed to secularizing Islam and is an intellectual and political platform for pushing forward interventions that advance France's cultural assimilation objectives. DAVIDSON, *supra* note 27, at 211–14. *But see* Colette Davidson, *Why French Military May Be More Tolerant of Muslims than French Society*, CHRISTIAN SCI. MONITOR (Mar. 1, 2016), http://www.csmonitor.com/World/Europe/2016/0301/Why-French-military-may-be-more-tolerant-of-Muslims-than-French-society (outlining the French military's model of embracing religious freedom). In addition, France proposed the "recruit[ment of] Islamic chaplains in the army and prisons." Susanna Mancini, *The Power of Symbols and Symbols as Power: Secularism and Religion as Guarantors of Cultural Convergence*, 30 CARDOZO L. REV. 2629, 2645 (2009); *see also* Alexandria Sage, *France Struggles to Fight Radical Islam in Its Jails*, REUTERS (May 7, 2013, 1:35 PM), http://www.reuters.com/article/us-france-radicalis ation-insight-idUSBRE94600Q20130507 (explaining that there are more than 160 Muslim chaplains in French prisons, but approximately 480 are needed).

33. *See Timeline of Terror Attacks in Past 20 Years*, WALL ST. J. (Jan. 7, 2015), http://www.wsj.com/articles/timeline-of-terror-attacks-in-past-20-years-1420662841 [hereinafter *Timeline of Terror Attacks*] (listing three terror attacks in France between 1995 and 2014).

34. *See European Court Upholds French Full Veil Ban*, BBC NEWS (July 1, 2014), http://www.bbc.com/news/world-europe-28106900 (explaining that the French law imposes fines for wearing clothing intended to conceal the face in public).

35. *Id.*

36. Mancini, *supra* note 32, at 2642 ("France embodies the militant secularist model par excellence, bent on keeping religion completely out of the public sphere.").

37. 1958 CONST. art. 1 (Fr.) ("France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs.").

38. French scholars argue against the notion that there is a spiritually or politically monolithic Muslim community. *See e.g.*, Olivier Roy, *There Are More French Muslims Working for French Security Than for Al Qaeda*, HUFFINGTON POST: WORLDPOST (Jan. 9, 2015, 7:46 PM), http://www.huffingtonpost.com/olivier-roy/paris-attack-muslim-cliches_b_6445582.html [hereinafter Roy, *French Muslims Working*] ("There are no signs pointing toward the beginning of the establishment of a Muslim political

rank as the most strident per se responses to domestic and Continental terrorism, are the symbolic and structural cornerstones of the cultural assimilationist and counterterror model.[39] Following the Paris Attacks, and amid state efforts to expand and mainstream CVE Policing strategy, these Bans manifest a counterterrorism regime that (1) exacerbates tensions and disables the cultivation of strategic relationships between law enforcement and France's Muslim population, particularly in the Muslim-dominated and downtrodden *banlieues*;[40] (2) stifles inroads within French Muslim communities, emaciating the state's social capital within them; (3) undermines the French Muslim "cooperation" vital for maximizing the effectiveness of CVE Policing;[41] and, (4) weakens, in the long-term, successful implementation of a "Micro-CVE Policing" model that polices the secular seeds of individual deviance, instead of Islam as a faith and Muslim spaces at large as the sources of radicalization.[42]

While the CVE Policing model is riddled with theoretical problems and fundamental civil liberties concerns,[43] as examined in my

party . . . [and t]here is no 'Muslim vote.' . . . In France, there is not a Muslim community, but a Muslim population."); *see also supra* note 14 and accompanying text (noting that the Arab and Berber populations in France are often conflated).

39. *See* Suzanne Daley & Alissa J. Rubin, *French Muslims Say Veil Bans Give Cover to Bias*, N.Y. TIMES (May 26, 2015), http://www.nytimes.com/2015/05/27/world/europe/muslim-frenchwomen-struggle-with-discrimination-as-bans-on-veils-expand.html (arguing that many French view the laws as a means "to defend the traditions of French life").

40. *Banlieues*, or suburbs, have taken on a pejorative meaning and are associated with slums occupied by immigrants of varying origins, including Muslim and African; yet, there is enormous diversity within the *banileues*, which are often segregated between the well-off suburbs and community housing projects. *See* George Packer, *The Other France: Are the Suburbs of Paris Incubators of Terrorism?*, NEW YORKER (Aug. 31, 2015), http://www.newyorker.com/magazine/2015/08/31/the-other-france (discussing the alienation within the banileues as an "acute problem that the republic has neglected for decades"). For a widely cited modern account of the development of the *banlieues*, formed to accommodate the emerging French Muslim community, see generally GILLES KEPEL, LES BANLIEUES DE L'ISLAM (1987).

41. *See* Aziz Z. Huq, *The Social Production of National Security*, 98 CORNELL L. REV. 637, 685 (2013) (noting that long-term cooperation better reduces individuals' motivation to join terror groups and pursue violence, as opposed to targeted actions to intervene on a specific act of terrorism); *see supra* notes 28–37 and accompanying text (applying the concept specifically to headscarf and face veil bans).

42. "Micro-CVE Policing," distinguished from prevailing "Macro-CVE Policing" approaches, phrases of my coinage, are narrowly tailored to focus on the specific structural roots that give rise to individual deviant actors. *Infra* Section II.B.

43. While critical of the CVE Policing model and philosophy—specifically, its core baseline tying Muslim identity with suspicion of terrorism—this Article does not thoroughly examine CVE Policing; but rather, it surveys France's deepening

research,[44] and the scholarship of notable "CVE scholars,"[45] this Article analyzes the strategic flaws with "Macro-CVE Policing." As a first step, this Article proceeds with a general analysis of the challenges the State will face when implementing CVE Policing measures and initiatives. These measures, along the lines of counterterror policing structure and strategy, clash with hardline cultural assimilationist philosophy symbolized by the Headscarf and Face Concealment Bans.[46]

Strict secularism frees France from the First Amendment free exercise and establishment of religion concerns that constrain U.S. CVE Policing methods.[47] Instead of constitutional constraints, France's challenges are acutely tied to its hardline cultural-assimilation policies and state-framing that views French identity as irreconcilable with Muslim identity.[48]

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commitment to CVE Policing in conjunction with its cultural assimilation model, and subsequently analyzes how the aims of the former are compromised by the execution of the latter. My research echoes Rik Coolsaet's indictment of CVE Policing as "ill-defined, complex[,] and controversial." Rik Coolsaet, *Counterterrorism and Counter-radicalisation in Europe: How Much Unity in Diversity?, in* JIHADI TERRORISM AND THE RADICALISATION CHALLENGE: EUROPEAN AND AMERICAN EXPERIENCES 227, 240 (Rik Coolsaet ed., 2d ed. 2011). However, in light of its emergence as the preferred counterterrorism model in France, I conclude that both the interests of the State and French Muslims will be advanced instead by coupling CVE Policing with cultural integrationist strategies. I also echo the position of French scholar and public intellectual Olivier Roy, who is critical of the CVE Policing model because it is based on monitoring Muslim communities at large, instead advocating for policing based on deviant individual trajectories. *See, e.g.,* Roy, *French Muslims Working, supra* note 38 (noting that radicalized youths do not come from the traditional religious community but "from the periphery of the Muslim world").

44. *See* Khaled A. Beydoun, *Between Indigence, Islamophobia and Erasure: Poor and Muslim in "War on Terror" America,* 104 CALIF. L. REV. (forthcoming 2016) [hereinafter Beydoun, *Indigence, Islamophobia and Erasure*] (analyzing how the disproportionate targeting of indigent Muslim communities in the United States affects their constitutional rights).

45. Most notably scholarship from Amna Akbar, Sahar Aziz, Aziz Huq, Samuel Rascoff, and Olivier Roy, which are cited prominently within this Article.

46. Part III of this Article provides policy proposals linked to carrying forward a more sustainable CVE Policing regime tied to the critiques advanced by prominent French scholars and political analysts.

47. *See generally* Rascoff, *supra* note 26, at 173–79 (examining how enforcement of CVE Policing, and its subsequent state iteration of "official Islam" and classification of militant or "bad Muslims," encroaches on the First Amendment's Establishment Clause).

48. Fellag, *supra* note 14, at 9 (highlighting, for example, headscarves and face veils as an integral component of Islamic cultural tradition and noting the French Bans are an attempt to westernize French Muslims).

The convergence of the cultural assimilationist and CVE Policing counterterrorism models spawn considerable programmatic and strategic conflicts. These conflicts strongly suggest that effective expansion of French CVE Policing would be facilitated by the retrenchment of the cultural assimilation approach, and per the policy proposals of this Article, reassessment of its legislative lynchpins: The Headscarf and Face Concealment Bans.

Indeed, an interest convergence of state counterterrorism objectives with the free exercise of religion would spur goodwill dissolution of the Bans and the softening of hardline assimilationist policies, ultimately accomplishing the anti-radicalization that France seeks.[49]

Mitigating tension and building amicable relationships between French Muslim communities and the State are pivotal in preventing radicalization within and beyond them. The most effective policy means for enhancing CVE Policing requires reconsideration of the Headscarf and Face Concealment Bans. Proponents of the Bans may dismiss this proposal on grounds that it eschews state adherence to "*liberté, égalité, fraternité*," the Republic's core principles.[50] Building inroads, developing social capital, and cultivating trust between state police and the French Muslim communities, however, are vital to the success of CVE Policing. More saliently, a CVE Policing model that targets individual deviance instead of collectively and collaterally punishing the entirety of France's Muslim community.

Amid the immediate aftermath of the Paris Attacks and a fluidly shifting French counterterror program, this Article contributes to two, intimately overlapped, bodies of legal scholarship: the criminalization of Muslim identity in France and the global expansion of CVE Policing. By fusing together these areas of research, this Article seeks to make three contributions to both bodies of legal literature. First, this Article brings newfound relevance to the rich body of legal and social-science research examining the counterterror aims and effects of the French assimilationist approach, which became prolific after 2004's Headscarf Ban.

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49. *Cf.* Derrick A. Bell, Jr., Comment, Brown v. Board of Education *and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 524 (1980) (arguing that school desegregation benefitted the United States politically and economically—beyond the issues of racial inequality—at home and abroad).

50. This French motto, meaning "Liberty, Equality, Fraternity," first spread during the Age of Enlightenment and survives as an integral part of French heritage. *Liberty, Equality, Fraternity*, FR. UNITED STATES (Nov. 30, 2007), http://franceintheus. org/spip.php?article620.

Second, this Article is tied to the emerging body of legal literature examining CVE Policing and counter-radicalization programs at large, in the United States and beyond. By exploring France's expansion of CVE Policing after the Paris Attacks, this Article uncovers how emerging counterterror philosophies and strategies clash with underlying constitutional and legal baselines core to a state's identity and—as in France—oblige major policy negotiations and reform.

Third, the emergence of ISIS and today's blurred lines between international and domestic terrorism have spawned greater collaboration between American and French counterterror agencies.[51] This enhanced collaboration, born out of mutual concern for ISIS and other terror networks and their influence on Muslim citizens, signals greater alignment of counterterror philosophy and strategy. Such an alignment provides greater understanding of the ebbs and flows of the French CVE Policing model beyond the Paris Attacks and the American model after tragedies such as the December 2, 2015, mass shooting in San Bernardino, California.[52]

Part I analyzes the formative and modern understandings of the masculine Muslim terror threat, mapping the gradual development of the State's current concern with homegrown Muslim radicalization. Part II juxtaposes the established state cultural assimilationist counterterror model, spearheaded and symbolized by the Headscarf and Face Concealment Bans in modern France, with the State's enhanced commitment to CVE Policing following the growing fear of homegrown radicalization. Part III examines how the cultural assimilation counterterror model philosophy conflicts with, if not undermines, the stated goals of CVE Policing. Closing with policy prescriptions, Part III examines how the dissolution of the Headscarf and Face Concealment Bans will benefit CVE Policing, followed by social science-driven proposals for shaping a more sustainable and effective CVE Policing regime for France moving forward.

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51. *See, e.g.*, Dan Lamothe, *Pentagon Promises to Boost Intelligence Sharing with France After Paris Attacks*, WASH. POST: CHECKPOINT (Nov. 16, 2015), https://www.washingtonpost.com/news/checkpoint/wp/2015/11/16/pentagon-promises-to-boost-intelligence-sharing-with-france-after-paris-attacks (reporting on U.S. intelligence agencies' commitment to more closely share information with the French following the 11/13 Paris Attacks).

52. The attack on a party by a "radicaliz[ed]" Muslim couple killed fourteen and injured twenty-one. Paloma Esquivel et al., *Obama: "This Was an Act of Terrorism Designed to Kill Innocent People"*, L.A. TIMES (Dec. 6, 2015, 5:27 PM), http://www.latimes.com/local/lanow/la-me-ln-san-bernardino-terror-probe-widens-as-obama-set-to-speak-20151206-story.html.

I.   FROM RIOTERS TO RADICALS

*"What is dangerous is not minarets, but cellars and garages that keep
clandestine religious groups hidden. "*
—Nicolas Sarkozy[53]

*"[T]he most dangerous creation of any society is th[e] man who has nothing to
lose. "*
—James Baldwin[54]

The Paris Attacks ushered in an unprecedented state of fear of
Islam, or "Islamophobia,"[55] inside France.   The Attacks, which
unfolded during a protracted campaign to reform Islam and
assimilate France's Muslim citizenry,[56] moved the State to bolster its
commitment to CVE Policing.   Preceded by a string of terrorist
attacks on French and European soil—less than one percent of which
Europol reports were committed by Muslim radicals or "Islamists" in
2014[57]—the scale of the Paris Attacks have stoked considerable fear of
homegrown Muslim radicalization in France. This fear has expedited

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53. THE REPUBLIC, RELIGIONS AND HOPE (Khaled Beydoun trans., 2004).
54. *Letter From a Region in My Mind,* NEW YORKER (Nov. 17, 1962),
http://www.newyorker.com/magazine/1962/11/17/letter-from-a-region-in-my-mind.
55. "Islamophobia" is political and societal animus toward Islam, Muslims, and
individuals stereotyped as Muslims, in addition to state-sponsored policies that
associate Islam and Muslims broadly with national security threats. *See Islamophobia:
The Right Word for a Real Problem,* GEO. U.: BRIDGE INITIATIVE (Apr. 26, 2015, 5:56 PM),
http://bridge.georgetown.edu/islamophobia-the-right-word-for-a-real-problem
(tracing the origins of the term and arguing that it is necessary to label prejudice so
that it may be recognized and challenged). I define Islamophobia more specifically
as, "the presumption that Islam is inherently violent, alien and inassimilable, and
expressions of Muslim identity correlative with a propensity for terrorism.
Islamophobia is rooted in understandings of Islam as civilizational antithesis, and
perpetuated by government structures and private citizens. Finally, Islamophobia is
also the process, and namely, the dialectic by which state policies targeting Muslims
endorse prevailing stereotypes, and in turn, embolden private animus toward Muslim
subjects." Khaled A. Beydoun, *Islamophobia: Toward a Legal Definition and Framework,*
116 COLUM. L. REV. ONLINE (forthcoming 2016).
56. *See e.g.,* DAVIDSON, *supra* note 27, at 211–16 (highlighting the ICI as a key
component of France's cultural assimilation strategy).
57. *See* EUROPOL, EUROPEAN UNION TERRORISM SITUATION AND TREND REPORT 18,
40–41 (2015), https://www.europol.europa.eu/sites/default/files/publications/p_
europol_tsat15_09jun15_low-rev.pdf (noting that although about one percent of
terrorist attacks were "religiously inspired," about fifty percent of all arrests were for
religiously motivated terrorism).

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the State's shift toward the CVE Policing model, which was first implemented in the UK and is rapidly expanding in the United States.[58]

Although the vast majority of terror attacks were not motivated by politicized Muslim aims or Muslim culprits,[59] French counterterror policies have been designed to combat Muslim terrorism.[60] These policies are consistent with the State's preoccupation with foreign and, more increasingly, homegrown masculine Muslim terrorism.[61] This fear's modern roots are the Paris Riots of 2005, when throngs of youths from the Muslim-concentrated *banlieues* stormed the streets and tangled with law enforcement.[62]

Section A tracks the development of this preoccupation and fear of homegrown Muslim radicals, which became discursively and politically robust after the 2005 Paris Riots and, indeed, reached unprecedented heights following the Paris Attacks. Section B examines the counterterror measures enacted to prevent and police the perceived Muslim threat, focusing on the cultural assimilationist and CVE Policing models.

A.   The Banlieue *and the Belly of Homegrown Threat*

In 2005, the *banlieues* on the outskirts of Paris exploded with riots led by area youths.[63] Almost a year after the Headscarf Ban, young men from these segregated and indigent[64] African and Muslim-

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58. *See generally* Akbar, *Policing "Radicalization"*, *supra* note 13 (analyzing hardline CVE Policing structures and strategies in the United States and the First Amendment concerns these strategies specifically pose to Muslim American communities); *see also* Beydoun, *Indigence, Islamophobia and Erasure*, *supra* note 44 (describing CVE Policing pilot programs launched in Boston, Los Angeles, and Minneapolis, and their disparate impact on indigent and working class Muslim communities).

59. *See* EUROPOL, *supra* note 57, at 8, 40 (noting that only two attacks in the European Union in 2014 were "religiously inspired").

60. *See supra* text accompanying note 39 (describing the Headscarf and Face Concealment Bans as cornerstones of France's counterterror policies).

61. The international and domestic terrorism labels are not meant to form a rigid binary. As examined in Part III, these two classifications overlap and, with the emergence of ISIS, are often blurred by the State.

62. *See* Craig S. Smith, *Immigrant Rioting Flares in France for Ninth Night*, N.Y. TIMES (Nov. 5, 2005), http://www.nytimes.com/2005/11/05/world/europe/immigrant-rioting-flares-in-france-for-ninth-night.html (describing the riots as "France's worst urban violence in a decade").

63. *Id.*

64. *See* Mancini, *supra* note 32, at 2662 ("Muslims in Europe generally appear to suffer higher levels of residential segregation, high levels of homelessness, poorer quality housing conditions, poorer residential neighborhoods, and comparatively greater vulnerability and insecurity in their housing status.").

dominated enclaves clashed with National and City Police within the belly of these ghettoes. Seventeen days of rioting ensued, sparked by the combined powder-keg of structural poverty, unemployment,[65] "the lack of opportunity and stifling conditions,"[66] and the deaths of a fifteen-year-old boy of Malian descent and a seventeen-year-old boy of Tunisian descent as they fled police.[67] The two victims were both young Muslim men from the northeastern Paris suburb of Clichy-Sous-Bois.[68] The vast majority of youths who subsequently stormed the streets were also Muslims from that neighborhood or other *banlieues* similarly riddled by poverty, lack of opportunity, and police violence.[69]

The 2005 Paris Riots were a major political flashpoint for the Republic and its Muslim citizens. Specifically, the images projected onto television screens and printed in newspapers, and the rhetoric delivered by politicians and pundits, reformed discursive and state perceptions of Muslim threat.[70] Before the Riots, Muslim terrorists were generally believed to be foreign agents, deviant actors associated with transnational terror networks operating beyond France's

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65. JOHN R. BOWEN, WHY THE FRENCH DON'T LIKE HEADSCARVES: ISLAM, THE STATE, AND PUBLIC SPACE 248 (2007) ("The riots that enflamed France in the fall of 2005 brought to the world's attention how far France has yet to go in fighting the high rates of unemployment and discrimination faced by residents of the poor suburbs . . . ."). For a concise history of the structural poverty, unemployment, and poor housing pervasive in the banlieues, see Sophie Body-Gendrot, *France Upside Down over A Headscarf?*, 68 SOC. OF RELIGION 289, 297–98 (2007). Unemployment and un-employability are especially pronounced among Muslim youth inside the Paris suburbs. "More than [twenty percent] of the residents of Clichy and Montfermeil leave school without a diploma (about 150,000 people per year) . . . . The unemployment rate for Muslim youth in the suburbs of Paris is around [forty-three percent]." Soeren Kern, *French Suburb Becoming "Separate Islamic Societies"*, GATESTONE INST. (Oct. 10, 2011, 4:45 AM), http://www.gatestoneinstitute.org/2487/french-suburbs-islamic-societies.

66. Fellag, *supra* note 14, at 1.

67. *Fresh Violence Hits Paris Suburbs*, BBC NEWS (Nov. 3, 2005, 3:33 PM), http://news.bbc.co.uk/2/hi/europe/4401670.stm; *see also French Police Trial, supra* note 3 (focusing on the trial of the police officers who chased the two boys into a power substation where they were electrocuted).

68. *French Police Trial, supra* note 3.

69. Fellag, *supra* note 14, at 1–2.

70. For a brief synopsis of how French media projects the Islamophobic sentiment and political strategy of the National Front party, see Richard Seymour, *Far-Right Feasts on France's Unchecked Islamophobia*, AL JAZEERA (Dec. 16, 2015), http://www.aljazeera.com/indepth/opinion/2015/12/feasts-france-unchecked-islamophobia-151215122050269.html.

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boundaries.[71] The Riots, however, supplanted fears of the terrorist outsider with the homegrown radical.[72]

Following the Riots, the homegrown radical was caricatured in the very image of the young *banlieusard*.[73] The State contended that French Muslim youths of African and, specifically, Arab visage,[74] who were fully immersed in French life but simultaneously vulnerable to the lure of jihad, were within the reach of foreign terrorist organizations.[75] In addition, the Riots intersected with an ongoing narrative that "Islam is gaining ground in France where Christianity has . . . declined,"[76] seeding fears of religious radicalization among Muslims within a state that mandates secularism.

The common corpus of underlying ethnic tropes enabled the political shift from wayward *jeunes ethniques*[77] to homegrown radicals. During the Riots, images of young Muslim men setting cars ablaze, disobeying curfews, clashing with policemen, and openly slandering the State and the *Tricolour*,[78] were ubiquitous.[79] This growing wave of rebellious young Muslim men during the Riots and in their immediate aftermath was initially profiled as criminal threats by the State.[80] They were called "scum" by then President Nicolas Sarkozy.[81]

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71. Pamela Engel, *Why France Has Become a Prime Target for Terrorists*, BUS. INSIDER (Nov. 14, 2015, 12:35 PM), http://www.businessinsider.com/paris-attacks-why-terrori sts-target-france-2015-11.

72. *But see* DIDIER BIGO ET AL., EUR. PARLIAMENT, PREVENTING AND COUNTERING YOUTH RADICALISATION IN THE EU 16 (2014), http://www.europarl.europa.eu/ RegData/etudes/etudes/join/2014/509977/IPOL-LIBE_ET(2014)509977_EN.pdf (cautioning that governments may be overestimating how new technology has led to "self-radicalization" by those who would not otherwise have radicalized).

73. A "*banlieusard*" is a resident of a *banlieue*.

74. Fellag, *supra* note 14, at 1–2.

75. Yaroslav Trofimov, *Islamic State's Scariest Success: Attracting Western Newcomers*, WALL ST. J. (Feb. 26, 2015, 8:46 AM), http://www.wsj.com/articles/islamic-states-scariest-success-attracting-western-newcomers-1424932279.

76. Michele Tribalat & Gerard Mauger, *France, Islam and the* Banlieues: *A Debate on the Place of Islam and Class in the Suburbs*, GUARDIAN (Nov. 1, 2011, 10:02 AM), http://www.theguardian.com/commentisfree/2011/nov/01/france-debate-class-islam-banlieues (noting that the immigration and birth rates among Muslims are high, while younger generations of French origin are increasingly secularized).

77. *Jeunes ethniques* means ethnic youths.

78. *Tricolour* is a nickname for the French State Flag.

79. *See* Jennifer Heider, Note, *Unveiling the Truth Behind the French Burqa Ban: The Unwarranted Restriction of the Right to Freedom of Religion and the European Court of Human Rights*, 22 IND. INT'L & COMP. L. REV. 93, 102 (2012) ("It is estimated that, as a result of the riots, 10,000 cars were burned, 300 buildings were damaged, 220 police officers were injured, and over 6,000 people were arrested.").

80. *Id.*

Similarly, French media and political figures branded them "thugs," "criminals," and "gangs,"[82] labels that emanate from discursive and political understandings of the masculine Muslim identity as violent and warmongering,[83] unruly, and members of an "enemy race."[84]

Al Qaeda's emergence onto the international scene,[85] followed by ISIS several years later, however, has reframed perceptions of young, poor Muslim men as prospective radicals and unripe terrorists.[86] Again, the rapid reclassification of the French Muslim men in the *banlieues* was easy for politicians and pundits to make because the core ethnic tropes of the criminal Muslim street thug aligned with the discursive and political imaginings of the Muslim extremist.

Leadership within France's primary counterterror agencies believed that the political dissidence of the Muslim men in the *banlieues,* combined with their religious identities, made them ripe for recruitment by transnational terror networks.[87]   A number of sociologists argue that actors within France, particularly nationalist elements on the right, view "Islam-origin immigrants and minorities

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81. Ed Vulliamy, *Paris Attacks: In 1986 France United. Can It Find Common Cause Again?*, GUARDIAN (Jan. 10, 2015, 3:50 PM), http://www.theguardian.com/world/20 15/jan/10/paris-attacks-france-liberal-left-protest-arabs.

82. Leland Ware, *Color-Blind Racism in France: Bias Against Ethnic Minority Immigrants*, 46 WASH. U. J.L. & POL'Y 185, 186 (2014) ("Young *banlieusards* (*banlieue* residents) are stereotyped as gang members, criminals, and potential terrorists. They are regarded as 'immigrants' even though many of them are second and third generation citizens born in France."); *see* CATHY LISA SCHNEIDER, POLICE POWER AND RACE RIOTS: URBAN UNREST IN PARIS AND NEW YORK 180–95 (2014) (discussing the Riots and popular perceptions of the rioters during and in their wake).

83. Beydoun, *Between Muslim and White, supra* note 14, at 47–48.

84. *See* JOHN TEHRANIAN, WHITEWASHED: AMERICA'S INVISIBLE MIDDLE EASTERN MINORITY 68–72 (2009) (describing the views of American immigrants from the Middle East over previous generations); John Tehranian, *Performing Whiteness: Naturalization Litigation and the Construction of Racial Identity in America*, 109 YALE L.J. 817, 837, 841 (2000) (highlighting the embedded religious and cultural tropes American immigrants from the Arab World and the Middle East faced during naturalization proceedings, where—from 1790 to 1952—they had to prove they met the statutory definition of whiteness).

85. *See* MARC SAGEMAN, UNDERSTANDING TERROR NETWORKS 1 (2004) (describing the origins and goals of the *jihad* terror movement). *See generally* Olivier Roy, *Al Qaeda in the West as a Youth Movement: The Power of a Narrative* 2 (MICROCON Policy Working Paper 2, 2008) [hereinafter Roy, *Al Qaeda Youth Movement*], http://www.microconflict.eu/wp-content/uploads/2016/06/PWP2_OR.pdf (examining Al Qaeda's reach and resonance in Europe).

86. *France: Extremism & Counter-Extremism,* COUNTER EXTREMISM PROJECT 1, 2, 5, http://www.counterextremism.com/countries/france (last visited Aug. 17, 2016).

87. *Id.* at 6–7.

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in France as a single 'monolithic community.'"[88] Similar to within the United States, "Muslim" and "Arab" are used interchangeably in France.[89] This conflation embeds popular views that Arabs and Muslims are one in the same; that the French Muslim population does not include converts, Sub-Saharan Africans, whites, and other non-Arab groups.[90]

As such, the once riotous *banlieues* are today's sites for radical recruitment. Parisian *banlieues* alone, particularly those within the St. Denis District,[91] source a considerable segment of the twenty-five percent of the French fighters in Iraq and Syria that come from the Paris region.[92] The majority of these fighters is in their twenties and lured abroad or driven to engage in homegrown terrorism from social disaffection, culture of violence, and "generational nihilism," which grips this demographic.[93] A nihilism that spurred protests and riots and, with the growing influence of terror networks in France, incited homegrown terror attacks.

B.   Modern Terror Attacks

"For the greater the hostility toward Muslims in Europe and the deeper the West becomes involved in military action in the Middle East, the closer ISIS comes to its goal of creating and managing chaos."

—Scott Atran and Nafees Hamid[94]

The Paris Attacks are the latest in a series of domestic and Continental terror attacks orchestrated by French Muslim culprits.

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88.   Fellag, *supra* note 14, at 3.

89.   Beydoun, *Between Muslim and White, supra* note 14, at 43–44.

90.   *See* JONATHAN LAURENCE & JUSTIN VAISSE, *Being Muslim in France, in* INTEGRATING ISLAM 21 (2006), https://www.brookings.edu/wp-content/uploads/2016/07/integratingislam_chapter.pdf (breaking down Muslim demographics in France by origin).

91.   *See id.* at 37 (observing that the St. Denis District is a North Paris suburb where nearly half a million foreigners live).

92.   Atran & Hamid, *supra* note 2 (citing Daniel Milton, *The French Foreign Fighter Threat in Context,* COMBATING TERRORISM CTR. W. POINT (Nov. 14, 2015), https://www.ctc.usma.edu/posts/ctc-perspectives-the-french-foreign-fighter-threat-in-context).

93.   Roy, *Islamic Terrorist Radicalisation,* supra note 19, at 58; Olivier Roy, What Is the Driving Force Behind Jihadist Terrorism? A Scientific Perspective on the Causes/Circumstances of Joining the Scene, BKA AUTUMN CONF. 10 (Nov. 18, 2015) [hereinafter Roy, Driving Force].

94.   Atran & Hamid, *supra* note 2.

These attacks, all committed within the last twenty years, have intensified fear of homegrown French Muslim radicals. Although only a small fraction of the aggregate terror attacks and mass shootings were committed by Muslim culprits,[95] state counterterror messaging and programming have centered on fearing Muslim radicals and their terror threat at a far higher clip than non-Muslims threats.[96]

The first major attack by a Muslim culprit was in 1995; the bombing at the Saint-Michel subway station in Paris, which killed eight people and injured more than 150,[97] commenced state fear of homegrown Muslim terror. The culprit of the attack, Rachid Ramda, was an Algerian national with ties to the Armed Islamic Group, a network based in Algeria.[98]

Sixteen years later, six months before the Headscarf Ban, terrorists set their sights on Madrid's subway system. On March 11, 2004, a group of Muslim men with links to Al Qaeda planted a series of bombs, which ripped through four commuter trains, killing more than 190 people.[99] That attack, commonly referred to as "3/11," still ranks as the biggest terror attack on European soil in terms of the number killed.[100] Although 3/11 took place in Spain, President Chirac framed it as a domestic attack, using it to drive support for the ban on Muslim headscarves, which was ultimately enacted in later that year.[101]

Eight months later, fear of Muslim terror in Europe reached an even higher pitch when Mohammed Bouyeri, a Dutch-Moroccan Muslim, murdered Theo van Gogh, a well-known Dutch filmmaker and fierce critic of Islam.[102] The political and religious dimensions of van

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95. *See supra* note 57 and accompanying text (noting that only about one percent of terrorist attacks were "religiously inspired").

96. The imagined Muslim threat, as indicated by the scale and resources dedicated to counterterror programming in Europe, is far greater than the actual threat. *Id.*

97. *Timeline of Terror Attacks, supra* note 33.

98. *Id.*

99. *Id.*

100. *Id.*

101. Alan Riding, *Bombings in Madrid: Paris; France Reports Threat from an Islamic Group,* N.Y. TIMES (Mar. 17, 2004), http://www.nytimes.com/2004/03/17/world/bo mbings-in-madrid-paris-france-reports-threat-from-an-islamic-group.html (quoting President Chirac days after the Madrid bombings as saying that France, which had in the past "paid a high and painful price for terrorism," had no specific threats against it, "but, like all democracies, it is not safe from terrorist acts").

102. Marlise Simons, *Dutch Filmmaker, an Islam Critic, Is Killed,* N.Y. TIMES (Nov. 3, 2004), http://www.nytimes.com/2004/11/03/world/europe/dutch-filmmaker-an-islam-critic-is-killed.html; *see also Van Gogh Murder Suspect Confesses to Killing,* NBC NEWS (July 12, 2005, 1:48 PM), http://www.nbcnews.com/id/8551653/ns/world_ne

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Gogh's murder, combined with the religious and ethnic identity of Bouyeri, elevated the murder into an act of terror in the minds of French and European policymakers.[103]   Furthermore, it also reignited questions of whether Islam itself could be reconciled with the liberal principles enshrined by France and other European states; and concomitantly, whether the Continent's growing Muslim population could be integrated into modern European societies.[104]   Van Gogh's murder provided proponents further justification for the Headscarf Ban; moreover, it mobilized greater support for Jean-Marie La Pen and the National Front party—a party that moved from the fringe into the spotlight of French politics by centering on its anti-Muslim platform.[105]

French concern with the rising threat of "Islamic extremism,"[106] most notably Al Qaeda until 2012—and ISIS today[107]—was also influenced by the September 11th terror attack in the United

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ws/t/van-gogh-murder-suspect-confesses-killing (reporting that Bouyeri asserted that his actions were religiously motivated).

103. Dutch individuals with dual citizenship who join a terror group are now stripped of their Dutch citizenship. Hanne Cokelaere, *The Netherlands to Strip Dual Citizens of Nationality If They Join ISIL*, POLITICO (May 25, 2016, 11:54 AM), http://www.politico.eu/article/netherlands-to-strip-dual-citizens-of-nationality-if-they-join-isil (noting that President Hollande withdrew a similar proposal in France after protests). For a discussion of Bouyeri and the political and legal ramifications of van Gough's murder, see Jason Burke, *The Murder That Shattered Holland's Liberal Dream*, GUARDIAN (Nov. 7, 2004, 7:09 AM), http://www.theguardian.com/world/2004/nov/07/terrorism.religion.

104. This debate became prominent in both the media and academic discourses, including legal literature. For a discussion on the integration of immigrants and Muslims in Germany, see generally Cem Ozdemir, *Germany's Integration Challenge*, 30 FLETCHER F. WORLD AFF. 221 (2006).

105. This popularity of the National Front is again rising after the French attacks; known for its strident stance against Islam and Muslims immigrants and having a narrow construction of French citizenship, the party capitalizes off of terror attacks to push forward these platforms. Kim Willsher, *Front National Has Chance to Take Centre Stage After Paris Attacks*, GUARDIAN (Nov. 14, 2015, 2:24 PM), http://www.theguardian.com/world/2015/nov/14/paris-terror-attacks-fn-far-right-le-pen-front-national [hereinafter Willsher, *Front National*]; *see France Elections: National Front Leads in Regional Polls*, BBC NEWS (Dec. 6, 2015), http://www.bbc.com/news/world-europe-35018849 (illustrating how the Party's message resonated with voters in regional elections following the 11/13 Paris Attacks).

106. This term is used interchangeably with Islamism, Muslim extremism, Islamic fundamentalism, and other analogs that conflate conservative interpretations of Islam with terrorism.

107. *See* Sharma, *supra* note 15 (quoting President Hollande's speech given immediately after the Paris Attacks declaring a "pitiless" war against ISIS).

States.[108] Muslim-led attacks on French and European soil gave the threat a more looming, proximate feel, adorned with homegrown faces. Attacks such as "7/7"—the London Attack of 2005[109]—and the 3/11 Attack in Madrid stood as reminders of the reoccurring proliferation of male Muslim terror threats[110] and vivid signals of growing radicalization and imminent terror attack inside of France's borders.

Politicians, led by the ascending National Front party and its bellicose leader, Le Pen, used these attacks to push additional policies targeting France's Muslims.[111] In particular, the National Front and its sympathizers eyed the *niqab*, as well as other modes of face concealment worn by Muslim women, as the next cultural assimilationist measure that would further estrange French and Muslim identity—leading to the *niqab*'s banning in September 2010.[112]

However, the Face Concealment Ban did not have the intended effect, and attacks carried out by French Muslims continued. One such attack, known as the "Merah Affair," took place roughly two years after the Face Concealment Ban was enacted.[113] In March 2012, Mohamed Merah, an Arab Frenchman claiming association with Al Qaeda, killed three Jewish schoolchildren, a rabbi, and three French soldiers.[114] This attack was a boiling point for the State.

Merah's purported Al Qaeda ties and the State's fears of the terrorist group's reach into France triggered the formal counterterrorism policy shift toward CVE Policing.[115] This strategic

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108. *See* Amaney Jamal, *Civil Liberties and the Otherization of Arab and Muslim Americans, in* RACE AND ARAB AMERICANS BEFORE AND AFTER 9/11: FROM INVISIBLE CITIZENS TO VISIBLE SUBJECTS 114, 117–18 (Amaney Jamal & Nadine Naber eds., 2008) (analyzing how Arab and Muslim identity were directly and deeply implicated as a threat after 9/11); *see also* Susan M. Akram & Kevin R. Johnson, *Race, Civil Rights, and Immigration Law After September 11, 2001: The Targeting of Arabs and Muslims,* 58 N.Y.U. ANN. SURV. AM. L. 295, 297–99 (2002) (discussing America's comprehensive counterterror policies enacted by the George W. Bush administration in the wake of 9/11, and their impact on civil liberties).

109. *7 July London Bombings: What Happened that Day?*, BBC NEWS (July 3, 2015), http://www.bbc.com/news/uk-33253598 (recounting that, on July 7, 2005, four British Muslims coordinated suicide bombings in London's bus and subway lines, killing fifty-two).

110. The London Attack was the third targeting underground European subway systems, preceded by the 1995 Attack in Paris and 3/11.

111. Willsher, *Front National, supra* note 105.

112. *See infra* Section II.A.2 (discussing the Face Concealment Ban).

113. *Timeline of Terror Attacks, supra* note 33.

114. *Id.*

115. Francesco Ragazzi, *Towards "Policed Multiculturalism"? Counter-Radicalization in France, the Netherlands and the United Kingdom,* LES ETUDES DU CERI 3, 10 (2014).

shift toward CVE Policing was accelerated on May 24, 2014, when Muslim Frenchman Mehdi Nemmouche killed four people inside a Jewish museum in Brussels, Belgium.[116] The "Nemmouche Affair," as the attack became known in France, linked ISIS fears with the waves of Syrian refugees pushed into France, specifically because Nemmouche spent about a year in Syria.[117] For the State, the Merah Affair signaled Al Qaeda's growing influence with France's Muslims, while the Nemmouche Affair symbolized the increasing influence of ISIS, the threat *du jour*, inside the Republic and the Muslim concentrated *banlieues*.[118]

An attack by two gunmen on the Paris office of the satirical magazine *Charlie Hebdo* ended with the killing of twelve people on January 7, 2015.[119] Five more people died during the gunmen's escape and subsequent capture two days later.[120] The attack on the magazine, which routinely published inflammatory content about Islam, and most notably, the Prophet Mohammed,[121] reignited public and political debates about Islam's place in France,[122] and whether France's sizable Muslim population could be culturally assimilated and their "no-go zone" communities melded into broader society.[123]

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116. John Thor-Dahlburg & Elaine Ganley, *French Suspect Held in Belgian Jewish Museum Shootings Spent a Recent Year in Syria, Prosecutor Says*, WASH. POST (June 1, 2014), https://www.washingtonpost.com/world/french-suspect-held-in-belgian-jewis h-museum-shootings-spent-a-recent-year-in-syria-prosecutor-says/2014/06/01/d27e0 428-e9c2-11e3-93d2-edd4be1f5d9e_story.html.

117. *Id.* (stating that the Nemmouche Affair "crystaliz[ed] fears that European radicals will parlay their experiences in Syria into terrorism back home").

118. As a result, ISIS emerged into the most salient manifestation of terrorism within the minds of the citizenry and the halls of the State. Consequently, ISIS trumped Al Qaeda as state enemy number one, and France's counterterror policy and parlance shifted from terrorism and toward radicalization in line with the demographic threat posed by it. Ragazzi, *supra* note 115, at 4.

119. *Charlie Hebdo Attack: Three Days of Terror*, BBC NEWS (Jan. 14, 2015), http://www.bbc.com/news/world-europe-30708237.

120. *Id.*

121. *See* Kelsey Lucas, *Here Are the Translated* Charlie Hebdo *Covers*, DAILY SIGNAL (Jan. 8, 2015), http://dailysignal.com/2015/01/08/translated-charlie-hebdo-covers (featuring caricatures of the Prophet Mohammed on the magazine's cover multiple times).

122. Carla Power, *Why There's Tension Between France and Its Muslim Population*, TIME (Jan. 8, 2015), http://time.com/3659241/paris-terror-attack-muslim-islam/.

123. *See* Karl de Vries, *Paris Attacks Prompt Fears France's Muslim "No-Go" Zones Incubating Jihad*, FOX NEWS (Jan. 12, 2015), http://www.foxnews.com/world/2015/01/12/paris-attacks-prompt-fears-france-muslim-no-go-zones-incubating-jihad.html (arguing that the "no-go zones" are sensitive urban zones that "resemble poor sections of America's cities where gangs rule, crime and drugs are rampant[,] . . . police only enter with significant backup," and are a breeding ground for radicalism).

These questions, which were already at the center of French political and societal discourse before the Charlie Hebdo Attack, stoked fears of ISIS's apocalyptic vision and the homegrown radicalization it inspired, leading to the State's adoption of formal CVE Policing policies.[124]

These influences continued to take hold, as attacks in France increasingly mirrored attacks carried out by Al Qaeda and ISIS. In June 2015, a Frenchman, whom the State alleged had links to ISIS, decapitated his boss in France's third largest city, Lyon.[125] The style of the execution was more horrific than its scale, injecting ISIS-style decapitations—made infamous by the terrorist group's strategic use of beheading videos and their signature *mis en scene* of strategic violence—into the French imagination and France itself.[126]

Just five months later, Paris was again struck by terrorism, but this time on a far broader and more horrific scale. A handful of Muslim terrorists orchestrated the 11/13 Paris Attacks that killed 129 people, critically injured 352 others, and, consequently, exposed France's Muslim population to an unprecedented degree of state scrutiny and backlash.[127]

On July 14, 2016, while France was celebrating Bastille Day, its Day of Independence, tragedy struck the southern city of Nice. The attack on Nice claimed the lives of 84 people and injured 303 more when a man drove a truck into a concentrated group of people partaking in the Day's festivities.[128] The culprit, Mohamed Lahouaiej Bouhlel, a 31-year-old Tunisian Frenchman, was a deliveryman with

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124. For an overview of the expansion of CVE Policing following the Charlie Hebdo Attack, see generally Dorrie Hellmuth, *Countering Jihadi Terrorists and Radicals the French Way*, 38 STUD. CONFLICT & TERRORISM 979 (2015).

125. Angelique Chrisafis, *France Beheading: Suspect Had ISIS Links and Terrorist Motive, Says Prosecutor*, GUARDIAN (June 30, 2015, 9:21 AM), http://www.theguardian .com/world/2015/jun/30/france-beheading-decapitated-boss-terrorist-motive-isis-links-yassin-salhi.

126. For an analysis of how ISIS deploys its beheading videos as recruitment and propaganda tools, see Nancy Snow, *ISIS Beheading Videos: The Scariest Part Is How Well Their Propaganda Is Working*, GUARDIAN (Sept. 3, 2014, 11:51 AM), http://www.theguardian.com/commentisfree/2014/sep/03/isis-beheading-videos-propaganda-working.

127. *See supra* notes 7–9 and accompanying text (describing the attacks). The fact that at least five of the perpetrators were French nationals bolstered support for CVE Policing and its focus on homegrown radicals. *See* Jay Newton-Small, *Paris Attacker Is an Example of France's Homegrown Terrorists*, TIME (Nov. 16, 2015, 9:11 AM), http://time.com/4113864/paris-attacks-isis-homegrown-terrorism (profiling one of the primary culprits).

128. *Truck Attack in Nice, France: What We Know, and What We Don't*, N.Y. TIMES (July 15, 2016), http://www.nytimes.com/2016/07/16/world/europe/nice-france-truck-attack-what-we-know.html.

no material link to ISIS or another terror network.[129] Despite that lack of a connection, the Nice Attack will undoubtedly usher in greater demand for CVE Policing in France, particularly in Muslim-concentrated communities throughout the country.

With regard to the scale of the tragedy and the political response that followed, the Paris Attacks joined 9/11, 3/11, and 7/7 as lurid and living examples that the State used to characterize the Muslim threat in Europe and ISIS's perceived reach into France. This message resonated with the disgruntled and dissident populations of French Muslims.[130]

This reach, however, appeared much greater to French counterterror policymakers than it was in reality. The Paris Attack stoked the spiking fear of homegrown radicalization, spurring, in 2012, a marked shift toward a reformed counterterror model: CVE Policing. Although the CVE Policing model was rapidly deployed in Muslim communities within and beyond Paris, it is at odds with the concurrent French assimilationist philosophy.

II. FRENCH COUNTERTERROR POLICY

"The only way to deal with an unfree world is to become so absolutely free that your very existence is an act of rebellion."

—Albert Camus

Shortly after the 1995 Saint Michel Attack in Paris, the State believed it could neutralize Muslim terrorism by culturally assimilating its Muslim population into mainstream French society.[131] Whether one identifies as *French or Muslim* was the existential ultimatum posed by the State to its Muslim polity. This binary

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129. Ben Taub, *What We Know About the Attacker in Nice*, NEW YORKER (July 15, 2016), http://www.newyorker.com/news/news-desk/trying-to-make-sense-of-the-atta ck-in-nice ("Reports describe him as a troubled, unstable man who had recently been fired from his job and was undergoing a second divorce. He had three children; for all he knew, their schoolmates might have been in the crowd. He had a history of domestic abuse, and a criminal record, with charges ranging from vandalism to assault.").

130. *See* Christopher Harress, *France's War Against ISIS Could Create Homegrown Terrorists, Experts Say*, INT'L BUS. TIMES (Jan. 16, 2015, 8:35 AM), http://www.ibtimes .com/frances-war-against-isis-could-create-homegrown-terrorists-experts-say-1784086 (cautioning that France's efforts against terrorism following recent attacks could radicalize even more French Muslims).

131. Wiles, *supra* note 28, at 703–05 (noting that France's policy of cultural assimilation began in the nineteenth century and has persisted to include present-day immigrants).

suggests that combining the two identities is only possible if a French Muslim adopted one of the State's sanctioned iterations of Islam.

The revved up commitment to "domesticate,"[132] or "standardize"[133] Islam relied on embedded, Orientalist tropes of Islam as being "backward" and "repressive,"[134] fortifying modern misrepresentations and stoking fears of the homegrown terrorist and radical. This process required a reformulation of Muslim identity, namely the State's refereeing of spiritual and physical expressions of Islam in line with French Republicanism,[135] which is built upon militant adherence to strict secularism,[136] or *laïcité*.[137] If French Muslims did not attend a licensed mosque, follow a state-sanctioned religious leader, or adhere to schools of thought endorsed by the Ministry of Culture, they were presumptively subversives, associated with fringe and radical iterations, and, in turn, radical networks.[138]

Two pieces of legislation served as the cornerstones of the cultural assimilation counterterror model: the Headscarf Ban of 2004 and the

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132. "Domestication" is the State's formation of an official French Islam that aligns with the core principles and political interests of the State. JONATHAN LAURENCE, THE EMANCIPATION OF EUROPE'S MUSLIMS: THE STATE'S ROLE IN MINORITY INTEGRATION 249–51 (2012).

133. Fellag, *supra* note 14, at 12. The French state aims to formally construct a faction of Islam, which encompasses mosques, institutions, and religious leaders, viewed as reconcilable with prevailing notions of French identity and in line with state interests. *Id.* at 12–14.

134. *Id.* at 9. *See generally* FRANTZ FANON, A DYING COLONIALISM (Haakon Chevalier trans., Grove Press 1965) (1959) (analyzing the origins of core, and deeply embedded, tropes of Islam and Muslims).

135. BOWEN, *supra* note 65, at 11–12 ("According to the Republican way of thinking, living together in a society requires agreement on basic values. People in many countries would agree with this claim, but French Republicans seek to rigorously and consistently justify policies according to this idea. To do so means adhering to a certain brand of political philosophy, one that emphasizes general interests and shared values over individual interests and pluralism. . . . If the society has the right mechanisms to integrate people, to make them into citizens, then the State can be quite generous in welcoming immigrants, extending borders, even conceiving of a European Empire or a transoceanic one. But these mechanisms require immigrants to take on the values and the behaviors that signify that one has become French.").

136. 1958 CONST. art. 1 (Fr.).

137. *Laïcité* is a complex ideal steeped in French Republicanism and pivotal to the existential meaning of French identity. *See* Britton D. Davis, Note, *Lifting the Veil: France's New Crusade*, 34 B.C. INT'L & COMP. L. REV. 117, 122 (2011) ("In the modern era, *laïcité* arguably defines the 'collective, public identity' of the French people, the cornerstone of a national personality, defining what it means to 'be French.'").

138. *See supra* notes 132–33 and accompanying text (describing the State's attempts to "standardize" Islam).

Face Concealment Ban of 2010. The narrowing construction of *laïcité* following the string of terror attacks outlined in Section I.B served "as a stumbling block for Muslim entry into full French citizenship."[139] In addition to minimizing the "substantive citizenship" of French Muslims,[140] however, the Bans had three soft and hard counterterror objectives. First, the Bans aimed to prevent the expansion of expressions of Islam the State deemed to be in conflict with French notions of modernity and liberalism.[141] Second, the Bans sought to punish transgressors that refused to accord their exercise and expression of Islam in line with the State's secular dictates, or sanctioned modes of Islamic thought and practice.[142] Finally, the Bans served as the cultural anchor of suppressing iterations of Islam that the State linked with terrorism.[143]

This Part of the Article juxtaposes the cultural assimilation model with the State's recent adoption of the CVE Policing paradigm. Section A examines the former, while Section B provides an overview of CVE Policing strategy and structures.

A. *Saving Women from Islam: The Cultural Assimilation Model*

The 2004 Headscarf and 2010 Face Concealment Bans stand as the most strident pieces of French cultural assimilationist policy. While not per se counterterror measures, the State enacted the Bans as immediate policy responses to terrorist acts committed by Muslims and the escalating fear of homegrown, masculine Muslim radicalization.[144] Much of the legal scholarship frames the headscarf debate around concerns about civil and human rights, critical commentaries linked to liberalism and feminism, or the dialectic

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139. DAVIDSON, *supra* note 27, at 218 (noting that, from the French perspective, the inability to keep their religious identities private renders them ineligible to be part of the body politic).

140. LINDA BOSNIAK, THE CITIZEN AND THE ALIEN: DILEMMAS OF CONTEMPORARY MEMBERSHIP 30–31 (2006) (contending that some marginalized citizenship groups effectively have a lower citizenship status than others either because the State directly treats them unequally "or because the legal system treats certain social domains where de facto inequality prevails (for example, the ostensibly private spheres of economy, culture, and family) as falling beyond the constrains of citizenship altogether").

141. Fellag, *supra* note 14, at 9.

142. *Id.* at 10.

143. Henley, *supra* note 30.

144. *See supra* text accompanying notes 28–37 (noting that the Face Concealment Ban was enacted following a string of terrorist attacks).

between the State and religion.[145]   However, commentators have focused far less on the Headscarf Ban as an immediate and long-term counterterrorism measure. In modern France, cultural assimilation and counterterrorism are kindred areas of governance and regulation, with the latter concern dictating the rigidity of the former.[146]

The Headscarf and Face Concealment Bans are the modern centerpieces of French assimilationist philosophy. The Bans narrow the definition of French identity, and aim to establish a form of assimilation, which seeks to bring about

> the obliteration of any "minority identity" in favor of "Frenchness," with the objective of achieving a sense of equality through cultural similarity. As [Olivier] Roy has suggested, there is officially no "Muslim community" in France at all; Muslims who identify themselves as members of an ethnic, religious, or cultural minority are best described in French terms as "causalities of the integration process."[147]

Unlike the American or British "multicultural integration" model,[148] the French cultural assimilation model sees French identity as irreconcilable with public expressions of traditional modes of Muslim identity, particularly Muslim identities unsanctioned by the State.[149] By and large, French counterterrorism strategy is built upon the philosophy of state control. Namely, the State defines the parameters of religious expression and exercise, sanctioning which modes of Islamic observance and exercise are permissible.[150] France's deep reach into the religious lives of its citizens clashes with the American model, as enshrined in the First Amendment, which prohibits the State from burdening the free exercise or establishment of religion.[151]

Furthermore, the French assimilationist model frames its prohibitions on Islam as a cultural, instead of a religious, concern.

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145. These framings are replicated prominently in the social sciences literature—with the most notable works cited throughout this Article.

146. Wiles, *supra* note 28, at 729.

147. *Id.* at 703 (citing Olivier Roy, *Islam in France, Religion, Ethnic Community, or Social Ghetto?*, *in* MUSLIMS IN EUROPE (B. Lewis & D. Schnapper eds., 2004)).

148. In this model, the rights of ethnic and religious minorities are recognized and formally protected by law. *See, e.g.*, U.S. CONST. amend. I ("Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . .").

149. DAVIDSON, *supra* note 27, at 218 ("[I]t is because Muslims cannot relegate their religious identities to the realm of the private sphere that they cannot be republican subjects.").

150. *See, e.g., infra* Sections II.A.1–2 (discussing the Headscarf and Face Concealment Bans).

151. U.S. CONST. amend. I.

This is a philosophical baseline distinct from both American and European perspective, which extends into its counterterror programming: "[France] differs greatly from the British and Dutch approach in that France sees radicalization as a problem of social integration rather than a religious issue."[152] This framing aligns with the analyses of sociologists—such as Fellag[153]—and law scholars,[154] who argue that Muslim identity has been systematically converted into an ethnic or cultural marker, instead of a religious one. Thus, the State is invested in suppressing cultural expressions of Islam it associates with radicalization and terrorism and, starting with the headscarf, has honed in on Islamic practices exclusive to women to police Islam and France's Muslim communities.

1. Headscarf Ban of 2004

On March 15, 2004, France implemented Law No. 2004-228, commonly referred to as the "Headscarf Ban."[155] This legislation "forbade the wearing of 'ostentatious' religious symbols in public schools."[156] While also encompassing Jewish yarmulkes, Sikh turbans, and conspicuous Christian crosses, the surrounding political context points to the strong presumption that headscarves, and Muslims at large, were the primary targets of the Ban.

The findings of the Stasi Commission, the agency convened by President Chirac to assess the application of secularism in modern France,[157] affirmed this fear. As Professor Cees Maris has written, the

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152. J. Scott Carpenter et al., *Confronting the Ideology of Radical Extremism*, 3 J. NAT'L SEC. L. & POL'Y 301, 313 (2009) (asserting that France has a strong police and intelligence presence to combat radicalization, whereas the Dutch and British maintain a community-based approach with the use of established individuals such as imams, teachers, and social workers).

153. Fellag, *supra* note 14, at 2.

154. Beydoun, *Between Muslim and White*, *supra* note 14, at 43–44 (setting forth that the "Orientalist discourses did not draw a distinction between the Arab and the Muslim"). *See generally* Volpp, *supra* note 22, at 1592–98 (investigating the shifting relationship between citizenship and identity experienced by the "Middle Eastern, Arab, or Muslim" people post-9/11).

155. Khaled A. Beydoun, Laïcité, *Liberalism, and the Headscarf*, 10 J. ISLAMIC L. & CULTURE 188, 189 (2008) [hereinafter Beydoun, Laïcité, *Liberalism, and the Headscarf*]. The law is codified at CODE DE L'ÉDUCATION [EDUCATION CODE] art. 141-5-1.

156. *Id.* (quoting Adrien Katherine Wing & Monica Nigh Smith, *Critical Race Feminism Lifts the Veil?: Muslim Women, France, and the Headscarf Ban*, 39 U.C. DAVIS L. REV. 743, 745 (2006)).

157. Wiles, *supra* note 28, at 702–03 ("In July 2003, President Jacques Chirac set up the Stasi Commission to produce a report on the application of the laïcité principle . . . .").

influential Stasi Report rendered a damning assessment of the headscarf and its role in maintaining a form of Muslim expression that infringed upon narrowing bounds of French identity:

> Islamic scarves express a tendency toward religious isolation. Moreover, as symbols of the traditional subordination of women in the Islamic world, they impede the development of girls into autonomous persons. The command to wear headscarves in public ensues from the traditional Muslim ideal of female chastity that puts women under lifelong control of men. . . . [A] large group is wearing headscarves under a threat of force and violence . . . . According to the Commission, this corresponds with other Islamic violations of women's rights, such as arranged marriages, polygamy, repudiation, and clitoridectomy [female genital mutilation].[158]

The Report's indictment of the headscarf as a tool of subordination and violence toward women were tied to concomitant tropes of Muslim men as misogynistic and oppressive. These very tropes shape modern formulations of terror and radical threat. Therefore, positioning the gendered dialectic of the masculine Muslim oppressor against the bounded, subordinate Muslim woman; the latter of which the State aimed to liberate, and the former standing as the primary target of its mounting counterterrorism might.

Within the political sphere, the "scarf as oppression" findings rendered by the Stasi Commission resonated strongly with French Parliament[159] and appealed to the "gendered Islamophobia" pervasive in all spheres of modern French society.[160] By a gaping 494-to-36 margin, French parliamentarians passed the Headscarf Ban.[161]

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158. Cees Maris, Laïcité *in the Low Countries? On Headscarves in a Neutral State* 1, 6 (Jean Monnet Working Paper 14/07, 2007).

159. Wing & Smith, *supra* note 156, at 767. For an analysis of how the headscarf stigmatized Muslim American women post-9/11, see generally Sahar F. Aziz, *From the Oppressed to the Terrorist: Muslim American Women in the Crosshairs of Intersectionality*, 9 HASTINGS RACE & POVERTY L.J. 191 (2012).

160. *See* BOWEN, *supra* note 65, at 156 ("[S]exism and violence against women appear in recent arguments and writings as one of the principal dangers posed by Islamism. Physical abuse of women and misogynist attitudes in the poor suburbs are among the most alarming sign of the degradation of social life. These acts threaten the gains made by women in their fight for respect—and the precariousness of these gains makes the treat to them all the more worrisome. Feminists mobilized public opinion against the voile [headscarf] by linking communalism and Islamism to the oppression of women in France and throughout the World.").

161. Henley, *supra* note 30. About a month later, the Senate passed the ban 276 to twenty. Associated Press, *French Senate Adopts Ban on Islamic Headscarves*, USA TODAY (Mar. 3, 2004, 4:25 PM), http://usatoday30.usatoday.com/news/world/2004-03-03-france-headscarves_x.htm.

The scope of enforcement manifested the preventative and punitive objectives of the Headscarf Ban. The Ban restricts the headscarf in public elementary schools, junior high schools and high schools.[162] In addition, "[S]tudents are prohibited from wearing signs or clothing through which they exhibit conspicuously a religious affiliation."[163] In line with the conclusions drawn by the Stasi Commission, the Headscarf Ban functioned as a policing measure on young French Muslim women, by criminalizing a core expression of Islamic piety within schools—the very places where students are intellectually and culturally shaped into citizens.[164]

The passage of the bill sparked vehement criticism from within and beyond the French Muslim community.[165] The bill, however, marked a significant win for proponents of the hardline cultural assimilation approach to further domesticate Islam[166] and advanced a counterterror program built upon stifling religious identities and expressions associated with terrorism and radicalization. Following the 7/7 Attack in London, the Van Gogh Affair in the Netherlands, the global expansion of Al Qaeda and the rabid fear it spurred, Sarkozy's National Front party tightened the State's cultural grip on Islam and punishment of Muslims, which in turn broadened its counterterror objectives.[167]

2. Face Concealment Ban of 2010

The National Front party leveraged the string of terror attacks after the Headscarf Ban to further erode the public presence of Islam in France. Six years later, the Face Concealment Ban—commonly referred

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162. Nicole Atwill, *France – Implementation of Law Prohibiting Religious Clothing in Public Schools*, 12 WORLD L. BULL. 15, 15–16 (2004), http://www.fas.org/sgp/othergov/wlb/200412.pdf.

163. *Id.*

164. While the Headscarf Ban stands as the centerpiece policy promoting cultural assimilation within schools, the Ministry of Education in France adopted an additional eleven measures following the Charlie Hebdo Attack aimed at promoting secular values in French schools. *France: Extremism & Counter-Extremism, supra* note 86, at 1.

165. Henley, *supra* note 30 (quoting Greville Janner, vice president of the World Jewish Congress, as saying that French legislators had "disgracefully punished the entire Muslim population and other religious communities").

166. LAURENCE, *supra* note 132, at 249–51.

167. *See* Lisa Bryant, *France Cracks Down on Radical Islam, Arresting 19*, VOICE OF AM. (Mar. 29, 2012, 8:00 PM), http://www.voanews.com/content/france-will-continue-arresting-suspected-islamic-militants-sarkozy-vows-145114165/180176.html (noting that the government had banned six Islamic preachers from entering France to participate in a Muslim conference).

to the "Burqa" or "Niqab" Ban—extended the punitive arm of the State into the religious lives of Muslim women.[168] On July 13, 2010,

> [T]he French Parliament passed a law that banned all facial coverings worn in public spaces. While the Law 2010-1192 of October 11, 2010 Banning Concealment of the Face in Public . . . does not mention any specific type of clothing, many understood the primary target of the law to be the *burqa* or *niqab*, veils that are worn by . . . Muslim women in France.[169]

The Ban went into effect on April 11, 2011, and broadened policing of Islamic expressions from the "schools to the streets."[170]

In line with the association of conservative Islamic women's dress with the "oppression and violence" rationale outlined in the Stasi Report,[171] the Face Concealment Ban passed the French Senate by a glaring 246-to-1 margin, with "about 100 abstentions coming essentially from left-leaning politicians."[172] The Headscarf Ban embedded the cultural assimilation counterterror model even deeper, during an impasse when fears of transnational terrorist networks—most notably Al Qaeda—were climaxing.[173]

Far more comprehensive in scope, the law prohibits full-face veils in almost all public areas, including streets, businesses, and government buildings, but not places of worship.[174] From a national security standpoint, the State framed modes of Muslim face concealment as more threatening than headscarves because of its

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168. Heider, *supra* note 79, at 93 ("The primary counter-view in the burqa debate is that a public burqa ban violates human rights by eliminating the rights to individual liberty and freedom of religion. In addition, some burqa supporters view a ban itself as a form of discrimination, as such bans tend to be tailored specifically to Muslims and reflective of anti-Islamic sentiments." (footnotes omitted)).

169. Jennifer Fredette, *Becoming a Threat: The* Burqa *and Contestation over Public Morality Law in France,* 40 L. & SOC. INQUIRY 585, 585 (2015) (footnote omitted).

170. Ware, *supra* note 82, at 233; *France's Burqa Ban in Effect Next Month,* CNN (Mar. 4, 2011, 7:27 AM), http://www.cnn.com/2011/WORLD/europe/03/04/franc e.burqa.ban/.

171. Ware, *supra* note 82, at 232–33.

172. *French Senate Approves Burqa Ban,* CNN (Sept. 15, 2010, 5:17 AM), http://www.cnn.com/2010/WORLD/europe/09/14/france.burqa.ban/.

173. *See Al-Qaeda Around the World,* BBC NEWS (Aug. 5, 2013, 9:21 PM), http://www.bbc.com/news/world-13296443 (discussing attacks and attempted attacks around the world leading up to and following the approval of the Headscarf Ban in 2010).

174. Heider, *supra* note 79, at 96–97 ("Any woman caught wearing a face-covering veil is subject to a 150 euro fine or a mandatory French citizenship course. Additionally, anyone who forces a woman to wear a religious garment is punishable by a 30,000 euro fine and a year in prison; 60,000 euro and two years in prison if the forced individual is a minor." (footnotes omitted)).

perceived link with conservative or militant iterations of Islam, such as *Wahhabism* or *Salafism*.[175]

A National Assembly working group that convened in 2010 echoed the Stasi Commission's rationale that traditional Islamic dress is oppressive.[176] To further suppress conservative Islamic values deemed to be at odds with French identity and emblematic of terrorism, the Ban focused on the perception of the Muslim man forcing a woman to wear the face concealment.[177] In other words, the Ban's express targets, again, were French Muslim women, but constructively directed at men perpetuating the "subordination of women . . . under a threat of force and violence."[178]

This Orientalist, gendered dialectic also served as the basis for pushing forward the Face Concealment Ban. Culturally, policing the dress of Muslim women provided a legal means to police the perceived terrorist proclivities of French Muslim men. In turn, the Face Concealment Ban broadened the "cultural control as counterterrorism" philosophy of the State, which stood as the primary model from 2004 until 2012, when fears of homegrown radicalization inspired by a new geopolitical threat, ISIS, spurred the beginning of a shift in state counterterror philosophy and policy.

B.   Toward a CVE-Centered Counterterror Model

"It wasn't until the Merah affair (2012) that French counterterrorism strategy began to change."

—Francesco Ragazzi[179]

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175. Conservative schools of Islamic Sunni examine scripture from a textual approach and believe that Islam today should be practiced in the same fashion it was during the Prophet Mohammad's time. *See generally* DAVID COMMINS, THE WAHHABI MISSION AND SAUDI ARABIA vi–viii (2006) (explaining *Wahhabi* and *Salafi* thought and their contemporary political impact); SAGEMAN, *supra* note 85, at 1 (providing an analysis of how *Wahhabi* and *Salafi* thought drive modern terrorist networks, most notably Al Qaeda).

176. Davis, *supra* note 137, at 118 ("Following a five month study, a parliamentary commission created by the French National Assembly—which included thirty-two members of Parliament from various political parties—issued a report stating that, '[t]he wearing of the full veil is a challenge to our [R]epublic. . . . We must condemn this excess.'").

177. *Id.* at 118, 127–28.

178. Beydoun, Laïcité, *Liberalism, and the Headscarf, supra* note 155, at 204–05.

179. Ragazzi, *supra* note 115, at 10.

Rising fear of homegrown radicalization led to the State's implementation of CVE Policing programs in 2012.[180] Before the 2012 Merah Affair, France's primary domestic intelligence agencies—the *Direction Centrale des Renseignements Généraux* (DCRG) and the *Direction de la Surveillance du Territoire* (DST)—rebuffed CVE Policing on four grounds: first, it was philosophically at odds with their cultural assimilation counterterror strategy; second, it curbed the State's per se commitment to secularism; third, it strategically conflicted with the hardline law enforcement policies within French Muslim communities, particularly the *banlieues*; and, perhaps most notably, fourth, law enforcement refused to collaborate with elements within the French Muslim community to prevent radicalization.[181] This is particularly true for religious leaders and institutions sanctioned by the State, which the vast majority of French Muslims do not look to for religious direction and worship. Furthermore, most of France's Muslim population perceives these leaders to be both religious and political.[182]

Emerging fears of homegrown radicalization, however, have altered the State's rigid stance against collaborating with French Muslim community and religious leaders. At this juncture, the counterterror interests of the State called for softening the hardline assimilationist tactics essential for an effective CVE Policing regime. Manifesting this shifting interest convergence, CVE Policing became a "political priority" after the Merah Affair[183] and, coupled with the Nemmouche Affair in 2014, led to the State's gradual expansion of formal CVE Policing initiatives.[184]

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180. The growing emergence of CVE Policing and related programs resulted from both international and external pressures.

> "[T]he American government, since the French riots of 2005, has been worried about how the alienation of European Muslims may weaken European allies. American diplomats and scholars are intervening in numerous ways, urging European states to adopt American-style race and security policies, funding Muslim organizations, [and] commissioning studies on 'moderate' Islam."

HISHAM D. AIDI, REBEL MUSIC: RACE, EMPIRE, AND THE NEW MUSLIM YOUTH CULTURE 196 (2014).

181. Ragazzi, *supra* note 115, at 10 ("For French counterterrorism officials, setting up formal partnerships with imams and community religious institutions is out of the question, just as it is difficult to imagine local police-mosque or police-Muslim association collaborations, or even passing legislation to separate 'good Islam' from 'bad.'").

182. Roy, *Islamic Terrorist Radicalisation, supra* note 19, at 59.

183. Ragazzi, *supra* note 115, at 3.

184. *Id.*

These new measures signaled a strategic shift in France's counterterror program, but fell short of the structural reforms needed to carry the shift forward. President Hollande issued "a number of statements concerning the need to reform France's counterterrorism strategy, in particular by following the examples of countries" with established CVE Policing programs.[185] Changing political realities persuaded Hollande to move away from a rigid counterterror approach, prompting closer collaboration with other nations through the Police Planner's Network on Countering Radicalisation and Polarisation (PPN).[186] The PPN was created to pool information and share best practices between member states.[187] Working closely with other nations similarly committed to CVE Policing tactics—particularly the United Kingdom—has highlighted how French cultural assimilationist counterterror strategies stood between it and the effective implementation of core CVE Policing strategy.[188]

Yet, the State's new commitment to CVE Policing did not trigger any major reforms to the cultural assimilationist counterterror programs enforced by the State. Currently, the two models are contemporaneously deployed by the State, but—as examined in Part III—are philosophically and fundamentally at odds. This conflict requires state retrenchment and softening of its cultural assimilation campaign as a vital step toward mobilizing CVE Policing.

Before analyzing how the French cultural assimilation model undermines CVE Policing, a survey of the latter's structure and strategy, following the State's considerable expansion of the counterterror model after the 2012 Merah Affair through the November 2015 Paris Attacks, is in order.

1. CVE Policing structures and strategy

The meaning and scope of the counter-radicalization strategy driving CVE Policing is still ambiguous and underdeveloped. Professor Samuel Rascoff articulates this ambiguity:

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185. *Id.* at 3, 6–8 (examining the CVE Policing programs in the United Kingdom and the Netherlands).

186. *The Policy Planners Network on Countering Radicalism and Polarization (PPN)*, INST. FOR STRATEGIC DIALOGUE, https://www.counterextremism.org/about-us/ppn (last visited Aug. 17, 2016) (stating that the French Ministry of Interior cooperates with ten other counterparts from Europe and North America on how best to counter extremism, polarization, and radicalism).

187. *Id.*

188. Ragazzi, *supra* note 115, at 10–11.

> To its proponents, counter-radicalization begins with the uncontroversial proposition that manifestations of violent extremism are rooted in ideas and social-behavioral processes. Understanding and addressing those ideas and processes will help prevent future attacks and thus should play an important role in American counterterrorism policy. But these basic assumptions give rise to a wide range of theoretical possibilities about what counter-radicalization is, how it should be conducted, and how the government can best devote its resources to address the contemporary security threat.[189]

This ambiguity, and the "theoretical possibilities" that emanate from it,[190] extends broad latitude to states, enabling them to enforce CVE Policing programs however they see fit. But from the vantage point of Muslim populations, this ambiguity is the source of state encroachment into their private lives. Loosely defined standards facilitate the broad dragnets that frame Islam as the source of radicalization and Muslims as presumptive threats, which ushers in collateral victimization and marked diminishment of civil liberties.

CVE, per its name, is committed to identifying and preventing "violent extremists" from committing terrorist acts.[191] As Professor Sahar Aziz observes, "[o]perationally, the objective is to stop people from embracing extreme beliefs (an inherently subjective and vague term) that might lead to terrorism, as well as to reduce active support for terrorist groups."[192] Anchored in this philosophy of prevention, proponents of CVE Policing argue that law enforcement—and their informants—are able to prevent targets, principally young, "westernized" Muslim men,[193] from adopting an extremist ideology.[194] To carry forward the broader aim of preventing radicalization, both "soft" and "hard" strategies are exercised by states that adopt the CVE regime.[195]

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189. Rascoff, *supra* note 26, at 137.

190. *Id.*

191. *Id.* at 141 ("[T]he radicalization process so described need not—and frequently does not—culminate in mobilization to engage in terrorist violence. The radicalized subject is not a terrorist, but rather someone who may be predisposed to regard terrorist violence as religiously sanctioned." (footnotes omitted)); *Countering Violent Extremism*, DEP'T HOMELAND SECURITY, https://www.dhs.gov/countering-violent-extremism (last updated July 6, 2016).

192. Sahar F. Aziz, *Policing Terrorists in the Community*, 5 HARV. NAT'L SECURITY J. 147, 164 (2014).

193. *See* Roy, *Islamic Terrorist Radicalisation*, *supra* note 19, at 52 (discussing the European background of many Muslim men with ties to terror groups).

194. Rascoff, *supra* note 26, at 142.

195. *See* Ragazzi, *supra* note 115, at 4 (explaining that "hard" CVE Policing tactics fall within the realms of criminal and national security policing, such as arrests,

CVE   philosophy   links   radicalization—or   propensity   for radicalization—with "certain religious and political cultures within Muslim communities."[196]   The CVE philosophy breaks down the "identifiable and predictable process by which a Muslim becomes a terrorist"[197]   into   four   stages: (1)   "preradicalization,"   (2) "identification," (3) "indoctrination," and (4) "action."[198]

In line with this process, a subject is viewed as a greater threat at each successive stage. Thus, CVE preventive logic seeks to seize the subject at the early stages before full-fledged indoctrination takes place and, most critically, before terrorist action is planned and pursued.[199] During the first stage, and variably the second, suspicion is largely linked to certain kinds of religious expression or political activity that law enforcement suspects is linked with radical activity.[200] As illustrated during the aftermath of the San Bernardino Shooting in the United States in December 2015, the FBI desperately sought to link the shooters, Tashfeen Malik and Syed Rizwan Farook, to ISIS, drawing a tenuous link to the terror group on grounds that Malik pledged her allegiance to the group in a Facebook post, yet absent any material involvement or direct communication with ISIS agents.[201]

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expulsion and removal, police interviews, and asset freezing, while "soft" CVE tactics focus on building personal relationships and programmatic ties with law enforcement).

196.   Akbar, *Policing "Radicalization"*, *supra* note 13, at 814.

197.   *Id.* at 820 (citing FBI COUNTERTERRORISM DIV., THE RADICALIZATION PROCESS: FROM CONVERSION TO JIHAD 2 (2006)).

198.   *Id.* (citing FBI COUNTERTERRORISM DIV., *supra* note 197, at 3).   Preradicalization involves people living in communities susceptible to radicalization; identification involves a gravitation towards Salafi Islam; indoctrination occurs when an individual intensifies his ideology; and action occurs when there is an intent to commit a terrorist act. *Id.* at 834–36.

199.   *Id.* at 820.

200.   FBI COUNTERTERRORISM DIV., *supra* note 197, at 4.

201.   Michael S. Schmidt & Richard Pérez-Peña, *F.B.I. Treating San Bernardino Attack as Terrorism Case*, N.Y. TIMES (Dec. 4, 2015), http://www.nytimes.com/2015/12/05/us/tashfeen-malik-islamic-state.html; *see* Laura Wagner, *Still No Evidence Linking San Bernardino Shooters to ISIS, FBI Says*, NPR: TWO-WAY (Dec. 16, 2015, 6:04 PM), http://www.npr.org/sections/thetwo-way/2015/12/16/460021165/still-no-evidence-linking-san-bernardino-shooters-to-isis-fbi-says (reporting that two weeks after the San Bernardino Shooting, the FBI had still not linked the perpetrators to ISIS); *see also* Khaled A. Beydoun, *The Ethnicity of San Bernardino Shooters Doesn't Matter*, AL JAZEERA (Dec. 4, 2015), http://www.aljazeera.com/indepth/opinion/2015/12/ethnicity-san-bernardino-shooters-doesn-matter-california-shooting-151203063729874.html (critiquing how the ethnic or racial identity of the shooters raised the immediate

Prominent French intellectual Olivier Roy departs from the prevailing American and British configuration of radicalization. Roy, a prolific commentator on radicalization and counter-radicalization, defines the process more narrowly, rendering two definitions that explicitly focus on Muslim extremism:

> First those who jumped into action either 1) having reached a terrorist sanctuary, Yemen, Syria, Iraq, or previously Bosnia, Afghanistan, 2) having perpetrated a terrorist attack or 3) been caught in an advanced stage of preparation for such an attack. The second category is made by those who manifested only an intention to go to some Jihad place or to do something in Europe. The problem is that the second category has swollen because of the increasing surveillance of the Internet social networks by the security services; it remains difficult to grasp how many would have effectively gone for action if they had not been spotted.[202]

Roy's definitions, not formally adopted by the State, are narrower than the facially neutral American (and British) interpretation of radicalization[203] that are overwhelmingly concerned with policing Muslim subjects and communities.[204]

Roy, however, is critical of the core CVE baseline that radicalization is linked to communal trajectories or wholesale religious groups, arguing that "radicalisation seems more linked to individual trajectories."[205] Therefore, Roy suggests that CVE strategy should focus more on individual subjects, and the societal symptoms that give rise to it, instead of religious doctrine alone or religious groups at large.[206] Roy concludes that, "we should make a distinction

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presumption of terrorism, illustrating a double standard with white culprits of mass shootings).

202. Roy, *Driving Force, supra* note 93, at 3.

203. *See Countering Violent Extremism, supra* note 191 (explaining that radicalism and violent extremist threats can "come from a range of groups and individuals").

204. In practice, CVE Policing programs in the United States are primarily geared toward and deployed against Muslim populations. *See* Akbar, *Policing "Radicalization", supra* note 13, at 811 (explaining that American CVE Policing, especially from the FBI and NYPD, focuses on Muslims even though data shows that violence from white-supremacist and right-wing groups is more likely).

205. Roy, *Driving Force, supra* note 93, at 4.

206. Roy outlines the primary baselines of radicalization in France and contends that: (1) "There are no psychiatric specific patterns for radicals"; (2) "The majority of the radicals come from second generation Muslims born in Europe, the others are converts"; (3) "Many have a past of petty delinquency and drug dealing"; (4) "It is clearly a youth movement"; (5) "Very few of them had a previous story of militancy, either political . . . or religious"; (6) "The unusual proportion of converts has been systematically overlooked because it contradicts the (culturalist) idea that individual

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between religious radicalisation and jihadist radicalisation,"[207] the latter of which leaders within the French Muslim community are also committed to stifling.[208] Echoing Roy, some research strongly suggests that it is not Islam that radicalizes disaffected youths, but it is disaffected youths—recruited and inspired by terrorist networks like ISIS—that radicalize Islam.[209]

To further counterterrorism objectives, the Macro-CVE Policing methods of radicalization, adopted by counterterror brass in the United States and the United Kingdom, and the Micro-CVE Policing alternative, proffered by Roy, require the assistance and involvement of Muslim interlocutors—a strategic and structural cornerstone of the CVE Policing model. Muslim interlocutors must support state counterterror policy from the bottom-up, rather than the State's current policy of enforcing a top-down approach, which views French Muslims as cultural transgressors instead of full-fledged citizens.

Building strategic alliances with advocacy, cultural, and religious organizations is of paramount importance to counterterror and law enforcement agencies employing CVE programs.[210] "Local community engagement is vital in this battle for the minds of young people" who are vulnerable to radical outfits and ideologies.[211] Residents and leaders within French Muslim communities equip law enforcement with on-the-ground informants, interlocutors, and

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radicalisation reflects a radicalisation of a frustrated Muslim community." *Id.* at 5–9; *see also* Fellag, *supra* note 14, at 2 (echoing Roy's "culturalist critique," and identifying, "the historical tendency of the French state to label French North Africans as 'Muslims'").

207. Roy, *Driving Force, supra* note 93, at 11–12 (arguing also that "radicals have a loose or no connection with the Muslim communities in Europe," which reveals that the radicalization process is not taking place within the confines of customary places of Muslim worship and community). Otherwise stated, radicals often use religion as a means or mask for furthering non-religious ends.

208. Section III.B.1, *infra*, continues this discussion, and proposes an adoption of Micro-CVE Policing strategies focused on politicking the "individual trajectories" Roy identifies.

209. *See* Roy, *France's Oedipal Islamist Complex, supra* note 1 (noting that "already disaffected [youths] are seeking a cause, a label, a grand narrative to which they can add the bloody signature of their personal revolt," of which a mutated iteration of Islam provides convenient means).

210. *See Countering Violent Extremism, supra* note 191 (explaining that the U.S. Department of Homeland Security maintains partnerships to support efforts by faith leaders, local government officials, and communities to prevent radicalization).

211. Margarita Bizina & David H. Gray, *Radicalization of Youth as a Growing Concern for Counter-Terrorism Policy*, 5 GLOBAL SECURITY STUD. 72, 77 (2014) (explaining that engagement helps youths develop ties to the community instead of forming a separate community of their own).

watchdogs. Furthermore, native informants and respected community figures would build legitimacy to the State's counterterror intervention strategy.

In addition, informants also add legitimacy to CVE Policing by either express or tactic endorsement. If a respected figure, such as an Imam,[212] takes on responsibility as interlocutor or informant, he not only sources law enforcement with invaluable and otherwise inaccessible information about a prospective target, but also stamps the policy with a seal of approval from an esteemed community figure. In addition, members of specific French Muslim communities possess a familiarity with the faith, and familiarity with residents that the State and law enforcement lack.

This double-familiarity is especially vital for shaping Micro-CVE Policing Programs, the focus of Section III.B.2, which shifts the geography of the law enforcement and informant monitoring from spaces of religious observance to spaces of social deviance.[213] This can be accomplished by first diminishing the presumption of guilt rendered onto Muslims as well as the subsequent state scrutiny and backlash distributed to them at large. A further step for an effective CVE Policing policy is to create a model that strategically hones in on the specific roots that give rise to radicalization, effectively preempting the youth's exposure to terror networks, most notably ISIS.

2. Bolstering the French CVE Policing model

A trustworthy metric showing how well ISIS's message is being received in France is the French contribution to ISIS's foreign fighters, which is greater than any other Western country. A prominent 2015 study estimates that approximately 1,200 of the 4,000 Europeans that traveled to Syria and Iraq to fight with ISIS were French citizens[214]—more recent estimates are as high as 2,000 French

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212. Imams are the spiritual leader of a mosque or Muslim place of worship.

213. Roy, *French Muslims Working, supra* note 38 ("Radicalized young people . . . come from the periphery of the Muslim word. They are moved to action by the displays of the violence in the media of Western culture. They embody a generational rupture (parents now call the police when their children leave for Syria), and they are not involved with the local religious community and the neighborhood mosques.").

214. Peter R. Neumann, *Foreign Fighter Total in Syria/Iraq Now Exceeds 20,000; Surpasses Afghanistan Conflict in the 1980s,* INT'L CTR. FOR STUDY RADICALISATION & POL. VIOLENCE (Jan. 26, 2015), http://icsr.info/2015/01/foreign-fighter-total-syriairaq-no w-exceeds-20000-surpasses-afghanistan-conflict-1980s/; *see* KRISTIN ARCHICK ET AL., CONG. RESEARCH SERV., R44003, EUROPEAN FIGHTERS IN SYRIA AND IRAQ: ASSESSMENTS, RESPONSES, AND ISSUES FOR THE UNITED STATES 9 (2015), https://www.fas.org/sgp/crs

fighters.[215] Either number is at least double the estimate of the next two biggest feeder states, Germany and the United Kingdom.[216] The magnitude of these figures indicates that ISIS's message may be more resonant in France than in any other European nation. ISIS dedicates considerable resources targeting French recruits, publishing a French language magazine, *Dar al Islam*, and, in November 2014, releasing a "recruit[ment] video aimed at French Muslims, calling on jihadists to execute attacks in France if they could not make it to ISIS-held territory."[217] The high numbers of Frenchmen traveling to ISIS-controlled territory illustrates that ISIS's enhanced recruitment efforts in France have proven fruitful.

On the heels of the Merah and Nemmouche Affairs, the Charlie Hebdo Attack, and, most recently, the 11/13 Paris Attacks, the State began to form and fortify its CVE Policing program. The adopted initiatives were aimed at cutting off ties between ISIS and the French Muslim population and to prevent radicalization before it fully matures into a terrorist attack.[218] As analyzed in Section III.A, however, these reforms are currently impeded by the hardline cultural assimilationist approach marginalizing French Muslim communities as second-class citizens, making counterterror pariahs out of potential partners.

First, the State responded by "[i]mposing travel bans on individuals suspected of seeking terrorist training abroad, arresting individuals for speech deemed supportive of terrorism, and blocking websites that encourage terrorism."[219] In line with the preventative aim of CVE Policing, the measure monitors, confines, and prosecutes the speech, association, and engagement with literature of designated terror

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/row/R44003.pdf (explaining that many Europeans who have gone to fight with ISIS may have been radicalized to some extent before they left and were dissatisfied with Western society).

215. Kim Willsher, *France to Set Up a Dozen Deradicalisation Centres*, GUARDIAN (May 9, 2016, 9:13 AM), www.theguardian.com/world/2016/may/09/france-to-set-up-a-dozen-deradicalisation-centres.

216. Neumann, *supra* note 214, at 1–2.

217. *France: Extremism & Counter-Extremism*, *supra* note 86, at 3.

218. Akbar, *Policing "Radicalization"*, *supra* note 13, at 820; *see, e.g.*, Henry Samuel, *France to Open "De-Radicalisation Centres" in Every Region to Tackle Islamist Threat*, TELEGRAPH (May 9, 2016, 6:21 PM), www.telegraph.co.uk/news/2016/05/09/france-to-open-de-radicalisation-centres-in-every-region-to-tack (announcing the opening of centers that would house those deemed at risk of radicalization).

219. Paul Belkin, *France: Efforts to Counter Islamist Terrorism and the Islamic State*, CRS INSIGHT (Nov. 18, 2015), https://www.fas.org/sgp/crs/terror/IN10301.pdf.

networks, like ISIS.[220]   If enforced broadly, this measure stands to infringe upon a broad range of innocuous religious activity, associations, and protected political speech engaged in by French Muslims.[221]

Second, as part of "exceptional measures" to respond to the rising radical threat, the French Circle of Ministers earmarked nearly 736 million Euros and commissioned an additional 2,500 law enforcement personnel, to bolster policing of French Muslim communities.[222] This expansion of police presence within French Muslim communities was strongest within the indigent *banlieues*, the most tightly policed space within France.[223] These actions have laid key law enforcement building blocks   for   Macro-CVE   Policing   strategies,   which   focus disproportionately on concentrated Muslim communities saturated with mosques, cultural and community centers, schools, halal butcheries, and other sites serving the local population.

Third, in the wake of the Charlie Hebdo Attack, Parliament passed what is commonly referred to as the "French Patriot Act."[224] This surveillance measure, "[a]llows intelligence agencies to tap phones and emails without seeking permission from a judge."[225] In addition to warrantless searches, the "French Patriot Act" enables law enforcement to carry forward protracted monitoring of Muslim

220. *Id.*
221. The Constitution of France enshrines broad free speech rights. Article 11 of the Declaration of the Rights of Man and of the Citizen of 1789, which is incorporated into the Constitution's preamble, states: "The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law." 1789 DECLARATION OF THE RIGHTS OF MAN art. 11 (Fr.) *translated in* YALE L. SCH.: AVALON PROJECT (2008), http://avalon.law.yale.edu/18th_century/rightsof.asp.
222. *Exceptional Measures to Combat the Terrorist Threat*, FR. UNITED STATES (Jan. 21, 2015), http://www.franceintheus.org/spip.php?article6445.
223. *See* Chrisafis, *Nothing's Changed, supra* note 5 (noting that, in the absence of neighborhood police officers in these areas, police work is often done by elite units without any connection or trust with the young people there).
224. *Lawmakers Back Spy Bill Dubbed the "French Patriot Act"*, FR. 24 (May 5, 2015), http://www.france24.com/en/20150505-lawmakers-back-spy-bill-dubbed-french-patriot-act (explaining that the law passed the National Assembly, the lower chamber, by a 438-to-86 margin after receiving support from the two main political parties); Sam Schechner, *French Senate Passes Intelligence Bill*, WALL ST. J. (June 9, 2015, 1:48 PM), www.wsj.com/articles/french-senate-passes-intelligence-bill-1433872098 (reporting that the surveillance law passed the Senate, the upper house, on a 252-to-67 margin).
225. Angelique Chrisafis, *France Passes New Surveillance Law in Wake of Charlie Hebdo Attack*, GUARDIAN (May 5, 2015, 12:11 PM), http://www.theguardian.com/world/20 15/may/05/france-passes-new-surveillance-law-in-wake-of-charlie-hebdo-attack.

targets and institutions and make house arrests based merely on the suspicion of associating with a terror network.[226] Unsurprisingly, the measure has been disproportionately enforced on France's Muslim population,[227] linking Muslim identity to presumed suspicion of radicalization. Amnesty International France condemned the French Patriot Act as a "major blow" to French human rights, and specifically, the rights of its 4.7 million Muslim citizens.[228]

Extending its efforts to counter Muslim radicalization at the terror-network level, President Hollande vowed to redouble France's military campaign against ISIS.[229] These efforts were dedicated to nations that are geographic strongholds for terrorist networks where French Muslims have strong ancestral and familial ties.[230] In function, this initiative is as much domestic policy as it is foreign policy-oriented. Namely, it seeks to weaken transnational terrorist networks on their indigenous turf, stifle their global reach, and eliminate their reach into French Muslim communities.

Collectively, these measures, issued between 2012 and 2015, illustrate the State's increasing commitment and rapid integration of CVE Policing. After the Paris Attacks, additional measures further bolstering CVE soft and hard measures are sure to follow. The rapid expansion of CVE built on a philosophy of community collaboration and exchange, is on a collision course with the established cultural assimilationist model. While CVE Policing philosophy is itself not monolithic, as manifested through Macro and Micro-CVE Policing

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226. Loi 55-385 du 3 avril 1955 relative à l'état d'urgence [Law No. 55-385 of April 3, 1955 Regarding the State of Emergency], http://www.legifrance.gouv.fr/affichTex te.do?cidTexte=JORFTEXT000000695350.

227. *See* Alissa J. Rubin, *Muslims in France Say Emergency Powers Go Too Far*, N.Y. TIMES (Feb. 17, 2016), http://www.nytimes.com/2016/02/18/world/europe/france s-emergency-powers-spur-charges-of-overreach-from-muslims.html (noting that hundreds of French Muslims had been placed under house arrest under the new powers).

228. *La Loi sur le Renseignement Doit être Déclarée Inconstitutionnelle [Law on Intelligence Should Be Declared Unconstitutional]*, AMNESTY INT'L FR. (July 10, 2015), http://www.amnesty.fr/Nos-campagnes/Liberte-expression/Actualites/La-loi-sur-le-renseignement-doit-etre-declaree-inconstitutionnelle-15641; *see* Elizabeth Bryant, *Amid the Mourning, French Unity Shows Cracks*, DEUTSCHE WELLE (Nov. 27, 2015), http://www.dw.com/en/amid-the-mourning-french-unity-shows-cracks/a-18880719 (noting that Amnesty International France's main concern was that the state of emergency laws might become permanent).

229. Belkin, *supra* note 219.

230. David A. Graham, *What Is France Doing in Syria?*, ATLANTIC (Nov. 15, 2015), http://www.theatlantic.com/international/archive/2015/11/france-syria-iraq-isis/416013/.

approaches, Part III examines the ruptures and conflicts between CVE Policing and the assimilationist counterterror approach.

III. BEYOND PARIS: A NEW COUNTERTERROR POLICY UNVEILED

"[ISIS's aim] is to [motivate] crowds drawn from the masses to fly to the regions which we manage, particularly the youth."
—The Management of Savagery (ISIS Manifesto)[231]

"These rebels without a cause find in jihad a 'noble' and global cause, and are consequently instrumentalised by a radical organization (Al Qaeda, ISIS), that has a strategic agenda."
—Olivier Roy[232]

On November 15, 2015, two days after the Paris Attacks, President Hollande ordered fighter jets to bomb strategic sites in eastern Syria.[233] The attacks were the first of what Hollande promised to be a "pitiless" war against ISIS;[234] a war France is poised to fight in lands "managed" by ISIS,[235] and in line with the homegrown origins of the Paris Attack culprits. Within a week of the Paris Attacks, French Parliament announced a three-month state of emergency[236] and

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231. ABU BAKR NAJI, THE MANAGEMENT OF SAVAGERY: THE MOST CRITICAL STAGE THROUGH WHICH THE UMMA WILL PASS 51 (William McCants trans., John M. Olin Inst. for Strategic Studies at Harvard Univ. 2006) (2004), https://azelin.files.wordpress.co m/2010/08/abu-bakr-naji-the-management-of-savagery-the-most-critical-stage-throug h-which-the-umma-will-pass.pdf. The 268-page manifesto was drafted for the Iraqi branch of Al Qaeda, an ISIS precursor. ISIS, however, adopts the manifesto as its own.

232. Roy, *Driving Force, supra* note 93, at 5 (reproducing a speech by Roy in Germany five days after the Paris Attacks).

233. Emily Shapiro, *French Jets Bomb ISIS Targets in Syria After Police Launch Manhunt for "Dangerous" Suspect,* ABC NEWS (Nov. 15, 2015, 9:34 PM), http://abcnews.go.com/ International/french-jets-bomb-syria-police-launched-international-manhunt/story?i d=35215091.

234. Sharma, *supra* note 15.

235. Ben Brumfield et al., *French Jets Bomb ISIS Stronghold of Raqqa, Syria; Few May Have Been Killed,* CNN (Nov. 16, 2015, 12:58 PM), http://www.cnn.com/2015/ 11/16/middleeast/france-raqqa-airstrikes-on-isis (reporting that French forces targeted an ISIS command center, ammunition storage base, and training camp in Syria for targeted airstrikes).

236. Angelique Chrisafis & Julian Borger, *French MPs Vote to Extend State of Emergency After Paris Attacks,* GUARDIAN (Nov. 19, 2015, 12:30 PM), http://www.theguardian.com/world/2015/nov/19/french-mps-vote-to-extend-state-of-emergency-after-paris-terror.

expanded surveillance capabilities.[237]   These measures signal
expansion of CVE Policing measures that the State deems vital for
combatting rising radicalization, but are structurally and strategically
at odds with the established assimilationist counterterror philosophy.

Section A analyzes the principal areas of tension between the
cultural assimilationist model and CVE Policing. Section B outlines
strategically tailored proposals that advance France's CVE Policing
program and interests, focused on: (1) dissolution of the most
hardline assimilationist policies—the Headscarf and Face
Concealment Bans; and (2) recommending the State's shift away
from Macro-CVE Policing philosophy, which views Islam as the source
of radicalization and thus Muslims, at large, as radicalization suspects;
toward adoption of Micro-CVE Policing strategies, which narrowly
hone in on individual deviants and the social roots and structures
that give rise to radicalization.

A. *How Cultural Assimilation Undermines CVE Policing*

CVE Policing in France disparately focuses on the practice of Islam
in Muslim-concentrated communities. These communities are none
other than the indigent and socially disconnected *banlieues* of
France's major cities—ground zeroes for 2005's explosive Paris Riots.
That rioting demographic—overwhelmingly composed of young,
disgruntled, and economically disenfranchised French Muslims—
comprises the "youth revolt" associated with radicalization today.[238]

Approximately one-third of the French Muslim population lives in
Paris and particularly these *banlieues*,[239] which American sociologist
Tricia Keaton brands "the other France."[240] These *banlieues* exist in

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237. *See* Glyn Moody, *French State of Emergency Allows Website Blocking, Device Search
Powers*, ARS TECHNICA (Nov. 20, 2015, 10:15 AM), http://arstechnica.com/tech-
policy/2015/11/france-passes-new-emergency-snooping-censorship-law-in-wake-of-
paris-attacks (reporting that police may now search digital equipment and any data
that is accessible from that device).

238. Roy, *Al Qaeda Youth Movement*, *supra* note 85, at 4–5.

239. Audie Cornish, *In France, Young Muslims Often Straddle Two Worlds*, NPR (Mar.
3, 2015, 4:34 PM), http://www.npr.org/sections/parallels/2015/03/03/390449785/
in-france-young-muslims-often-straddle-two-worlds; *see* Ware, *supra* note 82, at 207
(highlighting the disproportionate poverty experienced by French Muslims within
the *banlieues* and noting that Maghrebis—Muslim immigrants from northwestern
African states, most notably Algeria and Morocco—and Africans had the highest
proportion residing in public housing, at 47.9 percent and 43.5 percent,
respectively").

240. *See generally* TRICIA DANIELLE KEATON, MUSLIM GIRLS AND THE OTHER FRANCE:
RACE, IDENTITY POLITICS, & SOCIAL EXCLUSION (2006) (analyzing the cultural struggles

the shadows of the French *métropole*, which are often discursively and politically viewed as "separate Islamic societies, cut off from the [S]tate."[241] This framing is reinforced through hardline cultural assimilationist policies ushered in by Chirac, and bolstered by Sarkozy,[242] which, in turn, gave rise to the hardline law enforcement strategies currently employed in the *banlieues*.

Currently, France employs a hardline "dragnet" and "kicking the anthill" philosophy to policing French Muslim communities.[243] An Open Society Institute (OSI) study highlighted the intensity of this policing model, finding that, in Paris, "Blacks" were six times more likely on average to be stopped by police than whites, and "Arabs" were 7.6 times more likely.[244] Much like "Stop-and-Frisk" tactics used in the United States, most infamously by the New York Police Department,[245] these OSI figures manifest the same racially and religiously discriminatory pattern that led a United States District Court to find "Stop-and-Frisk" unconstitutional;[246] however, race is

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and limits to citizenship for France's Muslims, particularly those in the concentrated *banlieues*).

241. KEPEL, *supra* note 40, at 3; *see also* Kern, *supra* note 65 ("[T]he problem is being exacerbated by radical Muslim leaders who are promoting the social marginalization of Muslim immigrants in order to create a parallel Muslim society in France that is ruled by Sharia law.").

242. *See* Ronald Inglehart & Pippa Noris, *Muslim Integration into Western Cultures: Between Origins and Destinations* 1 (Harvard Univ. Kennedy Sch. of Gov't, Faculty Research Working Paper Series No. 09-007, 2009), https://dash.harvard.edu/bitstream/handle/1/4481625/Norris_MuslimIntegration.pdf (arguing that Islamic societies in Europe fall midway between social norms of the home country and the adopted country, which suggests that Muslims neither come to Western society with a rigid cultural identity, nor shape their cultural identity purely in response to Western policy). *See generally* Kristin Baker et al., *Combating Islamist Terrorism in Europe*, AM. DIPL. (Nov. 2007), http://www.unc.edu/depts/diplomat/item/2007/1012/bake/ba keretal_islameurope.html (suggesting that "[p]arallel Muslim [s]ocieties" have developed).

243. Ragazzi, *supra* note 115, at 20 ("The French intelligence services regularly use these legal provisions to obtain information via a method known as a 'dragnet' or 'kicking the anthill,' which involves arresting a large number of people suspected of being connected in one way or another to radical networks in order to destabilize and weaken them." (footnote omitted)).

244. OPEN SOC'Y INST., PROFILING MINORITIES: A STUDY OF STOP-AND-SEARCH PRACTICES IN PARIS 10 (2009).

245. *See Stop-and-Frisk Data*, N.Y. C.L. UNION (2013), http://www.nyclu.org/content /stop-and-frisk-data (showing that nearly nine out of ten citizens frisked in New York were innocent, and black and Latino communities were "the overwhelming target of these tactics").

246. *See* Floyd v. City of New York, 959 F. Supp. 2d 540, 658–60 (S.D.N.Y. 2013) (holding that the city's policy of racial profiling, combined with an indifference to

not even framed as a protected class in France. Even mentioning race could be viewed as discriminatory, according to a proposed 2013 constitutional amendment.[247] The post-racial environment of France, coupled with the cultural counterterror philosophy that targets Islam, arms law enforcement with the unfettered ability to engage in racially and religiously discriminatory policing.

This mode of policing, and its collateral effects,[248] further marginalizes French Muslims and deepens their mistrust of law enforcement and the State at large. Effective CVE Policing requires trust and, therefore, retrenchment of the cultural assimilation counterterror and hardline policing tactics currently employed in French Muslim geographies, mosques, and households. More specifically, this hardline assimilationist policing strategy impedes the effectiveness of CVE Policing in six salient ways.

First, it undermines the cultivation of social capital within French Muslim communities vital for the advancement of CVE Policing strategy. CVE Policing philosophy is founded upon cultivating collaborative relationships between local law enforcement and target communities. Traditionally, and still today, National Police and local police departments have used hardline and punitive policing strategies in the Muslim-concentrated *banlieues*, which envision and engage Muslim citizens as enemies instead of potential counterterror allies.[249]

Within a month of the Paris Attacks, the State announced plans to close up to 160 unlicensed mosques "as part of a nationwide police operation under the state of emergency" policies enacted by President Hollande.[250] These strident responses, which further illustrate the State philosophy to domesticate and stifle Islam in France, intensify

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widespread constitutional violations, rendered the city liable for violating the Fourth and Fourteenth Amendments to the U.S. Constitution).

247. Beydoun, *French Kiss Race Goodbye, supra* note 16 (noting that the ruling Socialist party proposed to add a ban on the use of race to Article 1 of the French Constitution, which protects equality under the law).

248. *See* Ragazzi, *supra* note 115, at 28 ("Halal butchers were thus closed down for breaching public health laws; places of worship for violating security regulations; and streetwear businesses for tax evasion. In May 2007, over five hundred sites were inspected, and more than two thousand people checked.").

249. *Id.* at 17 (arguing that France increasingly has used a hardline approach that expands the length of detentions, muddles the line between information and evidence, and broadens the scope of investigations).

250. Anealla Safdar, *France Likely to Close More than 100 Mosques*, AL JAZEERA (Dec. 2, 2015), http://www.aljazeera.com/news/2015/12/france-100-mosques-close-15120 2142023319.html (estimating that there are about 2,500 mosques in France).

local mistrust. As a result, supporting community collaboration is vital for carrying forward an effective CVE Policing program.

Second, hardline policing may spur, instead of stifle, radicalization among French Muslims. Inflexible and aggressive law enforcement may politicize, or even radicalize, elements within the French Muslim community. Instead of preventing radicalization, scholars have suggested that hardline, or "repressive," policing may "backfire." "Governments must be cautious in calibrating their approaches, however. Repression alone often backfires and causes further radicalization . . . . It appears that a dual strategy—including both hard- and soft-line measures—is the best policy for inducing individuals to leave a militant group."[251] This lends additional support to the theory that softer and narrowly tailored policing strategies, or Micro-CVE Policing, makes for a far more effective counterterror policing alternative.

Third, the cultural assimilation approach frames Muslim sites of worship as the very spaces where radicalization is sourced and spurred. Roy observes that "[r]adicals have a loose or no connection with the Muslim communities in Europe."[252] This suggests that the radicalization process is not taking shape within the confines of customary places of Muslim worship and gathering, like mosques or community centers. To the contrary, radicalization is linked to previous deviance: "[Radicals] do not represent an Islamic tradition; on the contrary they break with the religion of their parents. When they convert or become born-again, they always adopt some sort of Salafism, which is a scripturalist version of Islam that discards traditional Muslim culture."[253] Salafi mosques are few and far between in France and are unlicensed by the State.[254]

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251. ANGEL RABASA ET AL., DERADICALIZING ISLAMIST EXTREMISTS, xiv–xv (2010), http://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND_MG105 3.pdf (arguing that the State should continue to engage with jailed militants after their release because de-radicalization reduces individual threats and can also weaken militant organizations if a "tipping point" is reached).

252. Roy, *Driving Force, supra* note 93, at 12 (suggesting that terrorists are not particularly pious, do not regularly attend mosque, and, when they do, do so only to recruit others to their cause, not to spread their faith).

253. Roy, *Islamic Terrorist Radicalisation, supra* note 19, at 53.

254. *See, e.g.*, Marc Champion, *The Imam Who Wants to Purge France's Mosques*, BLOOMBERG: VIEW (Nov. 17, 2015, 9:46 AM), https://www.bloomberg.com/view/articles/2015-11-17/meet-france-s-hardline-moderate-imam (estimating that only 100 mosques out of about 2,500 in France are radical); *see also* Safdar, *supra* note 250 (reporting that France intended to shut down radical, unlicensed mosques).

Stated simply, radicals adopt a foreign brand of Islam not espoused in the vast majority of French mosques, or they use religion as a means, or a mask, for furthering non-religious ends.[255] The fact that these radicals are not reared within French mosques or rise from domestic religious contexts signals two critical conclusions: first, that targeting domestic religious spaces strays far from the secular source that give rise to radicalization; and second, that religious leaders may very well be willing to collaborate with the State to monitor unfamiliar, deviant actors that emerge from outside of their religious spaces and community contexts, and slander them as *takfiris*, or "apostates."[256]   In addition, Muslim residents and families with radicalized sons—or daughters—would collaborate with law enforcement at a higher rate if their Muslim identities, at large, were not criminalized:

> More and more, as with the parents of converts, [Muslim parents of second generation radicalized youth] try to prevent the radicalization of their children: They call the police; if the children have left the country, they follow to bring them back; they fear, with good reason, that the old children will draw in their young siblings.[257]

However, French hardline policing models focus on Islam at large instead of the secular, deviant individual trajectories of radicals as the seeds of radicalization.[258]   Conflating Islam at large with terrorism further marginalizes Muslim communities and leads to the intense state-sponsored backlash witnessed in the immediate wake of the Paris Attacks, undermining effective CVE Policing programming. Again, Islam does not radicalize disaffected youths; disaffected youths subscribing to Salafism, or another deviant interpretation of Islam, radicalize the faith.

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255. *See generally* Roy, *France's Oedipal Islamist Complex, supra* note 1 (arguing that Islamic terrorism represents the "Islamization of radicalism" rather than the "radicalism of Islam").

256. Safdar, *supra* note 250 ("Takfiris are classified as Muslims who accuse others of the same faith of apostasy, an act which has become a sectarian slur.").

257. Roy, *France's Oedipal Islamist Complex, supra* note 1.

258. This is also true for CVE Policing as currently practiced in the United States, which is almost entirely concerned with policing Islam and Muslim communities. Akbar, *Policing "Radicalization", supra* note 13, at 811; *see* Amna Akbar, *National Security's Broken Windows,* 62 UCLA L. REV. 834, 877 (2015) [Akbar, *Broken Windows*] ("Radicalization's concern is predicated on a false belief in the teleological character of Islam—that if Muslim communities witness conservative religious practice and critical politics, they will view such currents as acceptable and gravitate toward radicalism, thereby producing more terrorists.").

Fourth, the cultural assimilationist counterterror philosophy frames Muslims as counterterror pariahs. Currently, "France maintains a strong police and intelligence presence, rather than cooperating with local imams to create a connection between them and the local community."[259] This strong policing presence is coupled with the cultural assimilationist approach, which seeks to reform, erode, or overtake Islam instead of accommodate it. An integral part of the campaign to domesticate Islam in France is the training of Muslim leaders, who are used as "tool[s] for manipulation"[260] instead of objective interlocutors, committed to preventing extremism. This policy ignores deviant Muslim actors and does little to mitigate the collateral guilt and collective backlash such actors incur on French Muslims at large.

As illustrated in Section II.B, informants function as on-the-ground monitors, tracking possible identified targets and furnishing police with probative information that signals radicalization.[261] The quality of the information, almost invariably, rests upon the reputation of the informant. Therefore, individuals immersed and respected in the community are the best conduit for communicating with local law enforcement.[262] Imams, respected community figures, business owners, student leaders, and other figures steeped in the happenings of a target community make the most effective informants. A hardline policing approach in the *banlieues* stifles the State's ability to build collaborative relationships with key leaders in Muslim communities, which weakens the core component of CVE Policing strategy.

For example, hardline policing tactics have eroded relationships with the Union of Islamic Organizations in France (UOIF), which represents the majority of the Republic's 2,500 registered mosques. Furthermore, UOIF is an extremely social and political umbrella organization for French Muslims, with ties to the Union of Muslim Associations, which is "a Muslim lobby group that aims to mobilize

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259. Carpenter, *supra* note 152, at 313.

260. Roy, *Islamic Terrorist Radicalisation, supra* note 19, at 59 (arguing that when European countries have attempted to interfere directly with Islam, it fails).

261. Akbar, *Broken Windows, supra* note 258, at 853.

262. *See id.* at 858 (stating that, for CVE, the police look "to 'identify and develop relationships with community leaders and other individuals who have influence in their communities and may be helpful conduits of information for the communities'" (quoting *Working with Communities to Disrupt Terror Plots: Hearing Before the Subcomm. on Intelligence, Info. Sharing, & Terrorism Risk Assessment of the H. Comm. on Homeland Sec.*, 111th Cong. 7 (2010) (statement of Brett Hovington, Supervisory Special Agent, Head of Comm. Relations Unit, FBI)).

Muslims to elect candidates in local elections around Islamic issues."[263] Certainly, easing relationships with UOIF-associated clerics will create portals toward building strategic relationships with religious leaders with broad reach, particularly within the *banlieues*, facilitating greater relationships with Muslim politicians and elected officials. Both are critical steps toward carrying an individual-oriented CVE Policing model forward.

Fifth, the Headscarf and Face Concealment Bans disenfranchised Muslim women, dissuading them from being useful as prospective counterterror partners. The Headscarf and Face Concealment Bans severely diminish law enforcement's capacity to recruit French Muslim women as informants and interlocutors. This is especially the case with conservative French Muslim women, who don the headscarf or the face concealment, or would otherwise do so if these Bans were not in place.[264] Consequently, apart from the broader strategic dissonance these Bans create with regard to mainstreaming CVE Policing, the immediate impact of these Bans curb the State's capacity to enlist French Muslim women as CVE informants. In particular, recruiting women with deep reach and resonance within the religious, political, and communal spaces perceived to foment radicalization would be the precise type of CVE informant and interlocutor that law enforcement covets.

As examined more closely in Section B, the hardline state aim of domesticating Islam is at odds with emergent national security concerns. Roy observes, "the management of Islam should not be identified as a security issue first: in this case it will re-enforce the fascination of 'rebels looking for a cause' towards what is constructed by the West as an arch-enemy. Instead of 'exceptionalising,' we should 'normalise.'"[265]

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263. Kern, *supra* note 65; *see also* Jocelyne Cesari, *Islam in France: The Shaping of a Religious Minority, in* MUSLIMS IN THE WEST: FROM SOJOURNERS TO CITIZENS 45–46 (Yvonne Yazbeck Haddad ed., 2002) (describing the history of the Union of Islamic Organizations in France as an organization aiming to bridge the cultural divide between European society and immigrant Muslims).

264. *See* Kim Willsher, *French Muslim Women on Burqa Ban Ruling: "All I Want Is to Live in Peace"*, GUARDIAN (July 1, 2014, 2:26 PM), https://www.theguardian.com/world/2014/jul/01/french-muslim-women-burqa-ban-ruling (citing a researcher from Human Rights Watch who argues that the Bans "undermine the rights of women who choose to wear the veil and do little to protect those who are compelled to do so").

265. Roy, *Driving Force, supra* note 93, at 13–14 (arguing that to counter the terrorist message that Islam is a religion of the oppressed, western states should

By meddling with the religious liberties of French Muslims, as a means to advance national security, the State embeds the long-standing and vitriolic narrative that France and Islam are warring and irreconcilable. This binary is especially perplexing for French Muslims and, more specifically, for French Muslim women donning the headscarf or face concealment. Thus, instead of enacting policies that envision the headscarf as a marker of radicalization or a "flag of revolt,"[266] a pluralist approach toward French Muslims will signal a major move away from the "clash of civilisations" binary[267] and toward "integration and even 'empowerment,'"[268] which will build trust and stimulate support from French Muslims equally committed to suppressing radicalization.

Sixth, the CVE-practices unreasonably stretch the State's arm into everyday Muslim family life. Because the Headscarf and Face Concealment Bans infringe upon the most private areas of individual and familial life, French Muslims are highly suspicious of any and all state interventions concerned with policing religious—and cultural—identity, and compelling cultural assimilation. Therefore, the State and local law enforcement fail to develop social capital and personal inroads with French Muslims for hard CVE Policing programs and soft CVE strategies,[269] particularly in the *banlieues*—sites of disproportionate criminal, cultural, and national security policing. Within these over-policed spaces, French Muslim men and women will overwhelmingly dismiss police overtures to work with them as

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attempt to normalize the religion and let "imams ... be imams, not police auxiliaries").

266. Body-Gendrot, *supra* note 65, at 291 (arguing that the *hijab* has different uses and meanings for different Muslims depending on the context).

267. *See generally* Samuel P. Huntington, *The Clash of Civilizations?*, 72 FOREIGN AFF. 22, 22–23 (1993) (espousing the theory that the primary source of state conflict will stem from cultural differences between societies). *But see* Khaled A. Beydoun, *Dar Al-Islam Meets "Islam as Civilization": An Alignment of Politico-Theoretical Fundamentalisms and the Geopolitical Realism of this Worldview*, 4 UCLA J. ISLAMIC & NEAR E.L. 143, 144–45 (2005) (critiquing Samuel Huntington's theory, which assumes that Islam is monolithic, by highlighting sectarian division and in-fighting among Muslim groups, indicative of heterogeneity and division).

268. Roy, *Islamic Terrorist Radicalisation*, *supra* note 19, at 58 (advocating a pluralistic approach to integration, which accepts different interpretations of Islam including more traditional ones).

269. Ragazzi, *supra* note 115, at 4, 30–33 (defining soft counter-radicalization policies as police-community partnerships, community policing awareness programs, and mentorships as well as co-sponsored events, dinners, and task force meetings convening policemen and women, religious leaders, community advocates, political figures, and nonprofit leaders).

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interlocutors and informants.   Consequently, this would severely
weaken CVE Policing in the very spaces where radicalization is
thought to be most pervasive.

As examined below, dissolution of the Headscarf and Face
Concealment Bans will function as a landmark policy, moving away
from the rigid assimilationist philosophy ushered in under President
Chirac and bolstered by President Sarkozy. The policy will open the
door for French authorities to "make room for Islam without changing
[its] law or principles"[270] and therefore recoil its arms from the private
lives and religious sensibilities of French Muslim citizens and families.

B.   Toward Effective Policing After Paris: Policy Proposals

By   diminishing   religious   pluralism,   the   hardline   cultural
assimilationist counterterror philosophy ushered in by the Headscarf
Ban undermines the structural capacity and strategic aims of CVE
Policing. This Section argues that dissolution of the Headscarf and
Face Concealment Bans make for the most symbolically and politically
effective means for maximizing effective CVE Policing during a critical
time of terror attacks and spiking homegrown radicalization.

Second, this Section highlights pivotal social science that links
radicalization in Europe to social factors external to Islam,
disconnected from principal Muslim institutions and spaces
stereotypically associated with radicalization.

1.   Dissolving the Headscarf and Face Concealment Bans

President Chirac's cultural assimilation campaign, carried forward
by President Sarkozy, enabled strident anti-Muslim legislation that
formed the fulcrum of their counterterror programs. The Headscarf
Ban was the signature cultural assimilationist policy of the Chirac
administration, while the Face Concealment Ban is the cornerstone
of Sarkozy's.[271] Collectively, these Bans criminalize core expressions
of Islamic piety; though attributed to women, the expression of
donning a headscarf are seen as central to the Muslim family
structure. The Bans also impact the French Muslim population across

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270. Roy, *Islamic Terrorist Radicalisation, supra* note 19, at 58.
271. Jessica Aldred, *Jaques Chirac Backs Headscarf Ban,* GUARDIAN (Dec. 17, 2003,
4:43   AM),   http://www.theguardian.com/education/2003/dec/17/schools.uk1;
Angelique Chrisafis, *Nicolas Sarkozy Says Islamic Veils Are Not Welcome in France,*
GUARDIAN (June 22, 2009, 2:35 PM), https://www.theguardian.com/world/2009/
jun/22/islamic-veils-sarkozy-speech-france.

lines of gender and piety.[272] By circumscribing the religious rights of French Muslim women and meddling with the religious affairs of French Muslim families, the two Bans intensified the alienation of French Muslim citizens, particularly within the nation's circuit of *banlieues*.[273]

Shortly after the Paris Attacks, Holland declared that France will launch a two-front "pitiless" war against ISIS strongholds in Iraq and Syria, and the Muslim-concentrated *banlieues* within the heart of France.[274] CVE Policing was adopted as the primary strategy on the domestic front.[275] In light of the practical and political challenges posed by the cultural assimilationist counterterror approach, the Hollande administration will have to peel back its hardline assimilationist philosophy and, most notably, its cornerstone laws. Since mitigating tension and building amicable relationships within French Muslim communities is pivotal to the aim of preventing radicalization within them, the optimal means to achieve these ends is to (1) reassess the Headscarf and Face Concealment Bans and (2) consider their dissolution as a means to carry forward narrowly tailored and effective CVE Policing strategies, or "Micro-CVE Policing."[276]

Dissolving the two Bans will, in the short and long term, advance the counterterror goals of the State and also broaden the religious rights of French Muslims.[277] Furthermore, dissolving the Bans—particularly the Headscarf Ban, which is more commonly worn and accepted by different schools of Islamic thought—will facilitate the integration of French Muslim citizens and communities. Ending the Headscarf ban will also contribute to de-radicalization at the very roots that foment it:

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272. *See, e.g., supra* text accompanying notes 176–78 (discussing the targeting of the Face Concealment Ban toward both women and men).

273. *See* KEATON, *supra* note 240, at 4 (arguing that Muslim girls may increasingly wear headscarfs to school after the Ban as a sign of protest, leading to student expulsion and increasing isolation).

274. *See* Chrisafis, *Nothing's Changed, supra* note 5 (noting that Hollande, a member of the French Socialist Party, campaigned for the presidency by promising to end the ghettoes and the racial profiling under stop and frisk).

275. *See supra* note 115 and accompanying text (describing the move towards CVE Policing after the Merah affair).

276. *See infra* Section III.B.2 (analyzing the contradiction between CVE and the policies restricting the rights of Muslims, namely that these policies further exacerbate the underlying tensions which give rise to radicalism).

277. *Cf.* Bell, *supra* note 49, at 524 (noting that the *Brown v. Board of Education* decision had the side benefits of adding credibility to America's image abroad and improving relations with African Americans who served during World War II).

> European authorities should simply make room for Islam . . . .
> Genuine pluralism is the best way to avoid confrontation with a
> Muslim population, itself very diverse, but that could feel coerced
> into a ghettoised community. Conservative and even
> fundamentalist views of religion can be manageable in a plural
> environment, and a pluralistic approach allows civil society to reach
> the cadres of youth that could be prime targets for radicals and
> neo-fundamentalist groups.[278]

"Making room" for Islam also means viewing it as faith instead of a
"racial identity" exclusively along lines of Arab or Maghrebi
identity.[279] In addition, as closely examined below, retrenching the
domestic culture war on French Muslims also stifles ISIS's aim of
pushing its "France is oppressive against Muslims" messaging, which
resonates with its disaffected Muslim youth.[280]

Culturally integrative policies will not bring about immediate on-
the-ground reform, but they will create immediate goodwill between
the State and France's Muslim population. This goodwill, if gradually
nurtured through soft CVE strategies, such as community outreach
programs funded by the State,[281] will cultivate social capital and
develop stronger relationships between local law enforcement and
Muslim communities.[282] This is essential in the most disenfranchised
and downtrodden segments of France's population, which are heavily
concentrated in the *banlieues* and interlocked between systematic
state violence, poverty, and the recruitment reach of ISIS.

From a strategic standpoint, retrenchment of hardline
assimilationist policies is essential for carrying forward effective CVE
Policing programming within France. But these reforms are only the
first prong in building a more sustainable CVE Policing regime.

The second, discussed below, focuses on identifying the very
stimuli and roots that give rise to radicalization. Instead of policing
with a broad brush and conflating Islam—and Muslims at large—with
radicalization, Micro-CVE Policing initiatives maximize opportunities

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278. Roy, *Islamic Terrorist Radicalisation, supra* note 19, at 58.
279. Fellag, *supra* note 14, at 4.
280. Atran & Hamid, *supra* note 2, at 2 (arguing that Muslims in France have been especially susceptible to ISIS recruitment due to marginalized Islamic communities, and that ISIS's strategy is to "drive a wedge" between Muslims and non-Muslims).
281. Ragazzi, *supra* note 115, at 11 (describing one such program).
282. RABASA, *supra* note 251, at xv (suggesting that law enforcement should retain ties with suspected terrorists even after they leave custody).

to integrate French Muslims into the counterterror effort of monitoring individuals susceptible to "jihadist radicalisation."[283]

2. *From "Macro" to "Micro-CVE Policing"*

As enforced in the United States, CVE Policing is overwhelmingly concerned with policing Muslim communities. Professor Akbar observes that "[r]adicalization's concern is predicated on a false belief in the teleological character of Islam—that if Muslim communities witness conservative religious practice and critical politics, they will view such currents as acceptable and gravitate toward radicalism."[284]

Therefore, a de facto tenet of CVE Policing is to view Islam as monolithic and its followers presumptively prone to radicalization. This Macro-CVE approach exposes Muslims of all sects and schools of thought to heightened scrutiny, especially the indigent and working class communities that are disparately vulnerable to Macro-CVE's collateral impacts.[285]

While "Islam radicalizes Muslims" is the prevailing CVE Policing logic,[286] social science literature rebuts this state-sponsored presumption by offering two separate, but linked, counterarguments. First, identified and prosecuted Muslim radicals do not emerge from domestic Muslim communities, but are disconnected from them and have backgrounds characterized by wayward activity and non-religiosity.[287] In short, instead of Islam radicalizing Muslims, previously nominal, fickle, and "opportunistic" Muslims embrace neo-fundamentalist iterations of Islam and radicalize the faith:

> The rallying cry of these youth is opportunistic: Today it is the Islamic State; yesterday, they were with al Qaeda; before that, in 1995, they were subcontractors for the Algerian Armed Islamic Group, or they practiced the nomadism of personal jihad . . . .

283. Roy, *Driving Force, supra* note 93, at 11 ("[W]e should make a distinction between religious radicalisation and jihadist radicalisation.").

284. Akbar, *Broken Windows, supra* note 258, at 877.

285. *See generally* Beydoun, *Indigence, Islamophobia and Erasure, supra* note 44, at 6 (examining the disproportionate scrutiny and immediate perils CVE Policing poses to poor and working class Muslim communities in the United States, and in particular, CVE's three pilot cities: Boston, Los Angeles, and Minneapolis).

286. *See* Roy, *France's Oedipal Islamist Complex, supra* note 1 (claiming that one predominant theory for radicalization is that Islam "cannot be integrated into the West").

287. Roy, *Islamic Terrorist Radicalisation, supra* note 19, at 52.

>Tomorrow they will fight under another banner, so long as combat
>death, age, or disillusion do not empty their ranks.[288]

Second, social scientists argue that these deviant Muslim actors that
radicalize Islam are made susceptible to radicalization and terrorism
because of poverty, unemployment, social disaffection, and other
structural ills pervasive within the *banlieues*.[289]   Linked to the
argument above, this argument reframes the roots of radicalization
on the very "ghettoization of Muslims" President Hollande promised
to end when he came to power in May 2012.[290] Thus, the government
should adopt a dual policy: they should address poverty within the
Muslim-concentrated *banlieues* while simultaneously tailoring CVE
policy away from broader Islam, focusing instead on fringe
demographic groups at the greatest risk of radicalization. Echoing
this refocusing, Roy observes: "[W]e should make a distinction
between religious radicalisation and jihadist radicalisation."[291] I label
this approach as Micro-CVE Policing.

Micro-CVE Policing shifts state scrutiny away from France's 4.7 million
Muslim citizens and narrows its scope to monitor a far smaller pool of
prospective radicals. In addition to minimizing the collective guilt and
collateral state scrutiny of Muslims exacted by Macro-CVE Policing,
Micro-CVE Policing offers a more direct and effective means by focusing
closely on the roots of radicalization to accomplish its stated aims.

Social scientists argue that identified and prosecuted radicals in
Europe, many of whom commit the types of terror attacks like those
listed in Section I.B, all engaged in deviant secularity activity before
radicalizing.[292] These secular activities are a common denominator,
suggesting that these baselines—not Islam—are the seeds that give
rise to radicalization. Many of the terrorists had unexceptional
backgrounds: they had "a 'normal' Western teenager's upbringing,
with no conspicuous religious practices, often going to night clubs,
'womansing' and drinking alcohol"; backgrounds that "do not
represent an Islamic tradition; [but,] on the contrary[,] they break
with the religion of their parents"; and no involvement "in any

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288. Roy, *France's Oedipal Islamist Complex, supra* note 1.
289. *See* Roy, *Islamic Terrorist Radicalisation, supra* note 19, at 58 ("Concentrating on
sociology and the motivations of the radicals is important in understanding their
mode of recruitment, but will be of little use in drying up the ground on which they
prosper.").
290. Chrisafis, *Nothing's Changed, supra* note 5.
291. Roy, *Driving Force, supra* note 93, at 11.
292. *See supra* note 207 (explaining that the terrorists who committed the Paris
attacks had only a loose connection with Islamic communities).

legitimate anti-war movements or even in organised political support for the people they claim to be fighting for."[293]

Further demonstrating that Muslim radicals neither have backgrounds steeped in religion or footing in Muslim communities, France's Center for the Prevention of Sectarian Drift Related to Islam, "[e]stimates that 90 percent of French citizens who have radical Islamist beliefs have French grandparents and 80 percent come from non-religious families."[294] Thus, Macro-CVE Policing strategy proves futile when deploying resources and manpower to mosques, religious centers, and other spaces concentrated with Muslim citizens. These findings illustrate that CVE Policing should focus on the secular structures and spaces that give rise to criminal activity, gangs, drug dealing, and prisons. Instead of carrying forward law enforcement programs driven by the collective suspicion of Islam and French Muslims, which brings about collateral punishment of innocents—spurring greater disaffection—Micro-CVE Policing shifts the focus away from Islam and onto non-religious roots that give rise to radicalization.

In line with this broader pattern of criminal and religious deviance, research illustrates that prisons are very common recruiting grounds for radicals.[295] Many of the identified and killed radicals, including Mohammed Merah and Mehdi Nemmouche, culprits of the Merah Affair of 2012 and the Nemmouche Affairs of 2014, respectively, and Charlie Hebdo assailant, Cherif Kouachi, were allegedly radicalized in prison.[296] Muslim inmates comprise sixty to seventy percent of the French prison population,[297] "a situation that has left a very large number of young French Muslims vulnerable to absorbing radical ideas in prison and out."[298] Yet, instead of softening the hardline

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293. Roy, *Islamic Terrorist Radicalisation, supra* note 19, at 52–54. *But see* SpearIt, *Muslim Radicalization in Prison: Responding with Sound Penal Policy or the Sound of Alarm?*, 49 GONZ. L. REV. 37, 53–56 (2014) (summarizing the generally positive influence Islam has on inmate morale, discipline, and rehabilitation).

294. *See* Atran & Hamid, *supra* note 2, at 3 (citing estimates made by the Center for the Prevention of Sectarian Drift Related to Islam, an organization started by families concerned that their loved ones were becoming radicalized).

295. *See* RABASA, *supra* note 251, at xxii (recognizing the "increasing severity" of radicalization inside European prisons). *But see* SpearIt, *supra* note 293, at 65–66 (arguing that the relationship between prison and violent extremism is "tenuous at best" and that the number of inmates that go on to commit acts of terrorism is "extremely small").

296. *France: Extremism & Counter-Extremism, supra* note 86, at 3.

297. *Id.* at 10; *see also* Atran & Hamid, *supra* note 2 ("[A]s much as 70 percent of the prison population is Muslim . . . .").

298. Atran & Hamid, *supra* note 2.

policing that lead to this disproportionate incarceration of French Muslim men, the State responded by "reorganizing its prison system in order to isolate jihadist inmates from other inmates."[299]

This research illustrates that the Islamist terrorists emerge from reclusive backgrounds far from the religious spaces Macro-CVE Policing programs are concerned with monitoring.[300]   Thus, this suggests that Macro-CVE   Policing   victimizes   innocent   Muslim   communities, undermines strategic inroads within the communities, and, most critically, misses the very elements that are not only prone to radicalization, but proven to be mobilized toward terrorist action. Roy concludes:

> The Western-based Islamic terrorists are not the militant vanguard of the Muslim community; they are a lost generation, unmoored from traditional societies and cultures, frustrated by a Western society that does not meet their expectations. And their vision of a global ummah is both a mirror of and a form of revenge against the globalisation that has made them what they are.[301]

Therefore, policing mainstream and majoritarian mosques, community spaces, and French Muslim households veers markedly from the root spaces that give rise to radicalization, and fails to address the structural seeds that harvest it.

Critiques of Macro-CVE Policing also posit that social and economic marginalization, not Islam, is what radicalizes French Muslims, Muslim converts,[302] and non-Muslim youths.[303] Mitigating social ills such as poverty, racism, police brutality, unemployment, and the nihilism they breed,[304] which were explosively manifested in

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299. *See France: Extremism & Counter-Extremism, supra* note 86, at 8 (explaining that the policy was intended to reduce the ability for radical Islamists to spread their radical ideology).

300. *See* Roy, *Islamic Terrorist Radicalisation, supra* note 19, at 54–56 (noting that Islamic terrorists are "a lost generation, unmoored from traditional societies and cultures").

301. *Id.* at 55–56; *see also* Bizina & Gray, *supra* note 211, at 73 (echoing the revenge motive of terrorists, arguing that "[r]adical Islamist ideology offered an outlet for their anger at the country that supposedly failed them").

302. Roy, *Driving Force, supra* note 93, at 9 (explaining that converts comprise twenty-five percent of radicalized youths in France).

303. *See supra* Section III.A (positing that economic marginalization has led to a youth revolt that has resulted in radicalization).

304. Roy, *Driving Force, supra* note 93, at 10 (explaining that a component of the extremist ideology is a "generational nihilism" in which young people turn to violence as a way of acting out their frustrations); *see also* Olivier Roy & Nicholas Truong, *The Attractions of Jihadism, and a Generational Nihilism Stretching Far Beyond the Muslim Sphere,* OPENDEMOCRACY (Oct. 8, 2014), https://www.opendemocracy.net/can-europe-make-it/olivier-roy-nicholas-truong/attractions-of-jihadism-and-

the 2005 Paris Riots, may not only prevent radicalization, but could diminish its capacity to take form in France. Marc Sageman observes, "Those who feel that society as a whole has the least to offer them are the most likely to join" a terrorist network like Al Qaeda or ISIS.[305]

Finally, a leading economist contends that Macro-CVE Policing strategies are misdirected because of their emphasis on concentrated, indigent, and working class Muslim communities, instead of middle class and affluent contexts where terrorist groups center their recruitment.[306] Alan Krueger's findings suggest that terrorist organizations prioritize recruitment from affluent and elite backgrounds.[307] Thus, counter-radicalization efforts should focus on the "demand side,"[308] or headquarters of terrorist networks, such as ISIS or Al Qaeda, instead of French Muslim communities, including the *banlieues.* Furthermore, addressing and retrenching the structural catalysts that facilitate ISIS recruitment will not only diminish their resonance, but also enable greater integration of French Muslim communities.

Political scientists Atran and Hamid similarly view radicalization as a process that is less triggered by economic marginalization, but rather activated by ideological fervor that supersedes socioeconomic circumstance:[309] "If people are ready to sacrifice their lives, then it is not likely that offers of greater material advantages will stop them."[310] Their contention weakens the argument in favor of both Macro and Micro-CVE Policing.

Yet, despite this critique, Atran and Hamid agree that the hardline cultural assimilationist philosophy currently advanced by France, principally through the Headscarf and Face Concealment Bans, contributes to ISIS's grand narrative of Muslim oppression in the

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generational-nihilism-str (explaining that this nihilism effects youths who feel they "have lost out as a result of globalisation").

305.   SAGEMAN, *supra* note 85, at 118.

306.   ALAN B. KRUEGER, WHAT MAKES A TERRORIST: ECONOMICS AND THE ROOTS OF TERRORISM 3–4 (2007) (arguing that terrorists are not motivated because they are "desperately poor" but rather because they "care so deeply and fervently about a cause that they are willing to die for it").

307.   *Id.* at 32–33 (suggesting that terrorist organizations screen for those who are mostly likely to succeed).

308.   *See generally id.* (arguing, for example, that one relevant factor in predicting whether radicalism will spread is whether a country has reduced civil liberties and political rights).

309.   Atran & Hamid, *supra* note 2.

310.   *Id.*

West.[311] A "pitiless" war on the homefront, inflicting even more damage on French Muslims and fomenting even greater disaffection, will only intensify radicalization after Paris.

CONCLUSION

"Keep your French Republican illusions to yourself,
A beautiful France ruined by Africans . . .
Human beings were not meant to live in these projects,
One could not integrate into hatred and rejection. "
—Kery James[312]

"Did you think that when those heads our forefathers had forcibly bowed down
to the ground were raised again, you would see adoration in their eyes? "
—Jean Paul Sartre[313]

November 13, 2015, forever changed the meaning of "Friday the Thirteenth" in French. The horrific events of that day also stand to permanently reform the identity of the French counterterrorism program causing, as evidenced by developments in its immediate wake, a rejiggering of its domestic war on terror. While promising a "pitiless" war against ISIS on the international front,[314] President Hollande's adoption of "Countering Violent Extremism (CVE)" measures in 2012 signals state commitment to this emergent counterterror model.[315]   This strategic shift toward CVE is undergirded by a myriad of conflicts with the cultural assimilationist philosophy in France, which pits French identity in direct opposition to Muslim identity.

Until the Paris Attacks, the State's chosen policing tactic was to storm the streets of *banlieues* like Clichy-sous-Bois, inflicting targeted

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311. *Id.* (arguing that ISIS's strategy of recruitment is "to turn their personal frustrations and grievances into a universal theme of persecution against all Muslims").

312. KERY JAMES, *Lettre à la République [Letter to the Republic], on* 92.2012 (2012), *translated in* MP3TUNES.TK, http://www.mp3tunes.tk/download?v=XI-7NKDQKoU (last visited Aug. 17, 2016).

313. Jean Paul Sartre, *Black Orpheus, in* L'ART NEGRE PRESENCE AFRICAINE 10-11 219, 219 (S.W. Allen trans., 1951).

314. Sharma, *supra* note 15.

315. Rascoff, *supra* note 26, at 127 (arguing that counter-radicalization follows "the preemptive logic of counterterrorism, which focuses on strategies that minimize the risk and intensity of future terrorist attacks").

and collateral punishment on Muslim citizens presumptively prone to radicalization, or linked to terrorist activity.[316]   However, 11/13 marked the beginning of a counterterror paradigm shift to CVE Policing; a strategy requiring a move away from the knocking heads and kicking down doors counterterror approach France currently employs and gradual adoption of the collaborative strategies attendant with the emergent counterterrorism model.

For years, the veiled and unveiled heads of France's Muslim citizens in Clichy-sous-Bois, Montfermeil,[317] and other *banlieues* were forced to the ground. The assimilationist aims of the State prevented the integration of Muslim identity into the archetype of French identity held up by the State. These aims were realized through the criminalizing of conspicuous expression of Muslim identity and linking other forms of Islamic religiosity with suspicion of terrorism. This was routinely enforced through police violence, and inflicted by state neglect of the structural ills that perpetuate poverty and unemployment, nihilism and existential despair endemic to the Muslim-dominated *banlieues.*

For many young Muslim extremists in the *banlieues*, Islam is more political "revolt" than religious expression;[318] they break away from the religious traditions of their families, are largely ignorant of Islamic practices and the letter of the law, and "[t]he religious leaders they eventually choose to follow are often self-proclaimed imams."[319] Yet, despite this profile—and the fact that French government had the vast majority of these terrorists on the watch-list—the State still continues to police and indict Muslims at large.[320]   This is a dangerous dynamic that exposes French Muslims with dissident political views to state-sponsored scrutiny and violence, and puts them within the recruitment reach of ISIS.

The Paris Attacks, followed by the Bastille Day attack in Nice, show that emergent counterterrorism strategies require the lifting of these

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316. *See supra* Section I.B (suggesting that the terror attacks preceding the Paris attacks led to anti-Islamic policies, such as the Headscarf Ban, and increased support for the French National Front party).

317. Kern, *supra* note 65 (pointing out that these two *banlieues* are part of the Seine-Saint-Denis district, home to more than 600,000 Muslims and some of the highest concentrated Muslim neighborhoods in France).

318. ROBERT S. LEIKEN, EUROPE'S ANGRY MUSLIMS: THE REVOLT OF THE SECOND GENERATION 75 (2012) (arguing that Islamic migrants develop an ideology based partly on a political narrative that the West is oppressing Muslims and that Muslims themselves have culturally "gone astray").

319. Roy, *France's Oedipal Islamist Complex, supra* note 1.

320. *Id.*

bowed heads in the *banlieues.* Enacting culturally tolerant policies that integrate French Muslims as full-fledged citizens,[321] and, subsequently, as objective national security interlocutors instead of presumptive enemies, is vital to further the national security interests of the State. This view of French Muslims as citizens instead of suspects may not mark a genuine moment of progress or renewed tolerance, but, very frankly, an impasse signaling the State's national security interests converging with the citizenship interests of French Muslims. More importantly, pitting French identity against Islam perpetuates the "clash of civilisations" binary ISIS promotes and is bent on creating within its fluidly expanding territory and spheres of opposition.

Dissolving the Headscarf and Face Concealment Bans may not spur adoration for the State in the eyes of French Muslims, particularly not in the short term. But lifting these laws and, in turn, retrenching the hardline cultural assimilationist policies that have ravaged French Muslim communities for decades, may create new inroads that advance the goals of CVE Policing and facilitate the mainstreaming of sustainable, precise, and religiously tolerant Micro-CVE Policing strategies. This goodwill move may gradually prevent the brand of extremist radical threat that forever changed France on *Vendredi 13* and beyond.

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321. *See* BOSNIAK, *supra* note 140, at 30–31 (arguing that social groups that now enjoy citizenship rights in name may nonetheless lack complete citizen rights in practice, particularly if the group is perceived to be "'foreign' in character").