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**Legalities of Healing:**

**Handling Alterities at the Edge of Medicine in France, 1980s–2010s**

*by Emilie Cloatre,<sup>\*</sup> Nayeli Urquiza-Haas,<sup>§</sup> and Michael Ashworth<sup>#</sup>*

**ABSTRACT**

The practice of healing by anyone other than qualified doctors or pharmacists has been allegedly illegal in France since the nineteenth century. In this judicial order, the state delegated the power to oversee the boundaries of medicine to doctors and pharmacists, allowing them, with support from criminal courts, to determine which therapeutic techniques should remain their exclusive right. In practice, this apparently neat legal system was never clear-cut; therapists without medical qualifications continued to infringe upon spaces that doctors and pharmacists saw as their preserve, often carving out zones of juridical tolerance. In the 1980s and 1990s, negotiations over the legality or illegality of different kinds of healing intensified. Alternative therapies, such as acupuncture and herbalism, had gained in popularity and their practitioners were keen to negotiate a legal position that would make their work licit. While some succeeded, others got entangled in a new governmental framework that characterized alternative medicines as gateways to “sects.” This article examines these developments and explains how new juridical techniques to govern certain therapies arose in the 1990s. These operated through decentralized surveillance systems that enrolled new actors. These included agencies dedicated to monitoring sects; associations of victims; and individuals such as users, their families, or health professionals. Together, they aimed to “prevent” deviant behavior, thereby fostering what is today one of the most peculiar features of the way the French state regulates alternative healing, which it considers potentially “cult-like.”

**INTRODUCTION**

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In 2013, a newly established commission in the French Senate sought to investigate the risk of what was labeled “*les dérives sectaires dans la santé*,” a phrase illustrative of concerns that some alternative therapists use healing techniques to lure and manipulate patients in the same manner as cults. This connection between alternative healers and cults is a particularity of contemporary French debates on alternative healing methods, and of French governance of nonbiomedical therapies. It rests on a dichotomy between beliefs and reason, and locates state-backed medicine in the latter, as the opening line of the Senate commission’s report conveyed: “We expect medicine, given its practice by professionals, to be a haven of rationality from which magical beliefs should be banished.”<sup>1</sup> For the authors, preserving a “haven of rationality” was important not only because of the physical harm that could be caused by the scrutinized therapies, but because healers, like gurus, might threaten users’ mental well-being. Summarizing this concern, they asked: “How should we respond to the major risk posed by the proliferation of outlets providing ‘treatments’ that do not rest on any rational foundation, given the threat posed by sectarian behaviors?”<sup>2</sup> This article explores the events and discourse that precipitated the conflation of alternative healing and sects, placing them in the historical context of the healers’ negotiations of their legal and legitimate spaces of practice. We argue that the shift toward the contemporary approach to alternative healing as (also) related to sects can be traced to the 1980s, with the governance regime on which it relies being shaped throughout the 1990s and early 2000s. While partly a product of contingent events leading to a new general policy concern for sects, this shift also grew from a negotiation among professions of healers of the boundary between legal and illegal practice of alternative healing.

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<sup>1</sup> French Senate, *Rapport fait au nom de la Commission d’enquête sur l’influence des mouvements à caractère sectaire dans le domaine de la santé*, tome 1, Session Ordinaire (2012–2013) No.480 (Paris: Sénat, 2013), 7.

<sup>2</sup> *Ibid.*, 10.

Our contextualization employs two examples of relatively mainstream professions of alternative healers: acupuncturists and herbalists. We posit that the conflation between the governance of alternative healing and cults has roots—and implications—beyond the more esoteric therapeutic practices often imagined when thinking of cults.

Official French suspicion of alternative therapies was not new to the 1980s. Since the nineteenth century, many of these therapies had been provided illegally. Under the French Code de la Santé Publique (the Code), only doctors could provide treatment or carry out diagnosis.<sup>3</sup> Those without a medical degree were—and are—criminally liable for illegal medical practice. Yet this legal principle has, in its implementation, been contested. Disagreements have existed over what constitutes “treatment” or “diagnosis” in a medical and legal sense, and many therapeutic techniques are sufficiently malleable to have been argued one way or another. Courts sometimes disagreed in their interpretations. Other institutions were also influential in determining the legal/illegal, “medical”/“nonmedical” boundary; these included professional associations, the Academie de Médecine, medical faculties, and, occasionally, the central government. This last partly determined how the legal principle of illegal medical practice should apply, and what it should apply to. Beyond protecting a zone of exclusive practice for doctors, the Code offers pharmacists a monopoly over certain products, including medicinal plants, which other healers, such as herbalists, have long contested.

The 1970s and early 1980s, a period of public avidity for alternative medicine, saw renewed struggles over the boundaries of therapeutic practice. Some therapies were relatively recent imports to France, such as acupuncture. Others, like herbalism, were long standing, but reinvented to suit the appetites of the French public of the time. Still others were relative

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<sup>3</sup> Until 2000, this principle was found in the Code de la Santé Publique Art. L372, para. 1 ([https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000006693011/1953-10-07](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000006693011/1953-10-07)) In the new Code de la Santé publique it figures under Art. L. 4161.1 ([https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000038886735/](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000038886735/))

newcomers to French health care, such as naturopathy, osteopathy, or the relaxation method called sophrology.<sup>4</sup> Each had its own history and relationship to biomedical professions and state health care; some were used and disseminated by medical professionals, whereas other healers had no formal qualifications. Depending on their own position and claims, healers often blurred the established boundaries between legality and illegality. Therapies that involved physical interventions coupled with a therapeutic intent, could more easily be argued to fall within the purview of medical “treatment.” Others were more ambiguous insofar as they tiptoed along the fault lines between medicine and “well-being.” As a whole, these practices formed a nebulous field, labeled under a diversity of terms that reflected standpoints as well as trends: *médecines alternatives*, *médecines parallèles*, *médecines naturelles*, or, more rarely, *médecines douces* (soft medicines) favored by healers. One other, *médecines différentes*, was used in some mid-1980s policy texts.<sup>5</sup> By the 1990s, the state’s discomfort toward some of these techniques had grown, as had its desire to set them apart from “medicine” by reminding users that they were not all “soft” or “natural.” Consequently, the language became more austere and uniform, with the emergence of the term, *pratiques de soins nonconventionnelles à visée thérapeutique* (nonconventional care practices with a therapeutic intent). In this article, for ease and consistency, we adopt the English adjective “alternative,” as applied to healing, therapies, or medicine, though we occasionally use the relevant French terminology.

The boundaries of legitimate/illegitimate and legal/illegal healing were, in the 1980s and 1990s (and the years leading up to them), negotiated across institutions. Unsurprisingly, courtrooms were important spaces to determine breaches of the neatly imagined boundaries of

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<sup>4</sup> Anahita Grisoni, “De la naturopathie rurale à la santé naturelle: Distanciation et assimilation autour de la notion d’espace,” *Nouvelles Perspectives en Sciences Sociales* 8 (2012): 237-259, <https://doi.org/10.7202/1013924ar>

<sup>5</sup> Pierre Elzière, “Des médecines dites naturelles,” *Sciences Sociales et Santé* 4 (1986): 39–74, <https://doi.org/10.3406/arss.1986.2339>

law, and whether a specific act could be construed as an “illegal practice” of medicine or pharmacy. The Cour de Cassation, the highest court in France’s judiciary, settled disputes when cases reached it on appeal, thereby providing the most authoritative interpretation of these boundaries; however, few cases reached this stage. Hence, lower courts were often left to apply their own interpretation of facts until, for example, a healing technique was considered by the higher court.

But legality was negotiated far beyond courtrooms; for example, doctors disagreed among themselves about the techniques considered suitable for medical practice, with practitioners of acupuncture or homeopathy defending their professional legitimacy against the skepticism of their peers. The settling of these tensions depended upon a series of institutions beyond the central State: professional associations, such as the *Ordre des Médecins* (the French Medical Council) or *Ordre des Pharmaciens* (French Pharmacy Council); the *Académie de Médecine*; or the *Caisse Nationale d’Assurance Maladie* (CNAM, the national insurance body), which decided the treatments that could be reimbursed under the social security system. If these institutions accepted a technique as “medical,” it became harder for practitioners without a medical degree (those without medical degrees) to claim their use of the technique was lawful. Finally, healers lobbied the central government for support. This was the case particularly under President François Mitterrand’s first government in the 1980s, although, as we will see, medically qualified alternative healers were more successful in this quest than illegal healers seeking legal reform and recognition. Yet, ongoing illegal practice also generated a certain normalization of illegality, and zones of juridical tolerance. Against such a backdrop, new discourse linking cults and alternative medicine took shape from the mid-1980s and then intensified in the 1990s. This triggered a shift from blunt, top-down legal techniques (e.g., in

criminal courts), to subtle strategies of neoliberal governing.<sup>6</sup> This shift took place as a decentralized network of surveillance emerged, ultimately transforming the meaning of criminality in (non)medical practice. Hence, this article echoes João Biehl's analysis of the redistribution of traditional roles in health care and the spaces where law is enacted.<sup>7</sup> Within this neoliberal governmental logic, and with the emergence of a frame linking illegal medical practice to cults, the responsibility of policing the legal/illegal boundaries of medicine—previously the exclusive remit of criminal courts and professional bodies—fell upon a diffuse web of new actors and agencies.

Our analysis builds on mixed methods of data collection, as well as the (relatively limited) historical and social science literature on alternative medicine in France, and on cults and their governance. Using parliamentary debates, court cases, regulatory texts, contemporaneous news coverage, and some popular literature, we trace the discursive shifts that reframed alternative healing in the 1980s and 1990s, which led to new governmental mechanisms from the late 1990s onward. Our research is also informed by interviews with thirty-seven informants, including representatives of state institutions and professional associations of healers. Taken together, this material enables us to offer original insights into the significance of the conflation of policy discourse on alternative healing and sects, its relationship with preexisting and ongoing professional and legal struggles, and its impact on the continuing negotiation of legitimacy for different groups of practitioners. The article is organized as follows: First, we map the context in which various groups of healers negotiated legitimacy and legality in the period leading to the 1980s, using the contrasting examples of acupuncture and herbalism. Second, we examine governmental responses in the 1980s, noting

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<sup>6</sup> Michael Foucault, *Discipline and Punish: The Birth of the Prison*, trans. A. Sheridan (New York, NY: Vintage, 1995); Nikolas Rose, Pat O'Malley, and Mariana Valverde, "Governmentality," *Annual Review of Law and Social Science* 2 (2006), 88–104.

<sup>7</sup> João Biehl, this volume.

how the government engaged with nonbiomedical techniques and their potential incorporation into state-backed health care, yet still remained attached to biomedical professions as guarantors of therapeutic reliability. The specific impact on acupuncture and herbalism of such government engagement during this time period is considered. Finally, we show how governmental engagement with alternative healing intersected with the development of a state regime against cults. This regime progressively affected the governance of nonbiomedical healing, fostering what is today one of the most peculiar features of the regulation of alternative healing in France.

## **REDEFINING THE LEGAL BOUNDARIES OF “MEDICINE”:**

### **THE CASE OF ACUPUNCTURE**

Using the case of acupuncture, this section illustrates the tensions underpinning the relationship between alternative therapies, professional associations, and the courts up to the early 1980s. While doctors and unlicensed therapists in France have used acupuncture techniques since the 1930s, the practice became truly popular only in the 1970s. Doctors and unlicensed lay practitioners have subsequently battled over who should be allowed to use acupuncture lawfully.<sup>8</sup> Given acupuncture’s eventual uptake by medical doctors, it is notable that a pioneer of French acupuncture Georges Soulié de Morant was not a qualified doctor. An enigmatic character, whose biography remains contested, Soulié de Morant learned acupuncture during diplomatic stints in China. Upon his return to France in 1910, he wrote extensively on Chinese culture, and in 1934, he published among the first works in French on acupuncture, and went on to practice in influential circles and teach interested French doctors.<sup>9</sup> But even among his

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<sup>8</sup> Ronald Guilloux, “Évolution de la ‘tradition’ dans la réception de l’acupuncture chinoise en France (1860-1980),” *Revue d’Anthropologie des Connaissances* 5 (2011): 13–40, <https://doi.org/10.3917/rac.012.0013>.

<sup>9</sup> Johan Nguyen, *La réception de l’acupuncture en France: Une biographie revisitée de George Soulié de Morant (1878-1955)* (Paris: l’Harmattan, 2012); Lucia Candelise, “Georges



students, there was discomfort over a nondoctor practicing what some saw as a medical technique. Indeed, one student Roger de La Fūye ultimately denounced Soulié de Morant in 1950 to the state authorities for illegal medical practice, although the accused died before the trial.<sup>10</sup>

De La Fūye's stance was emblematic of attempts by doctors who had also trained in acupuncture (though training was at the time informal and no specific qualifications were required to use the title of 'acupuncturist') to create exclusive rights over what they considered a medical treatment. To acquire those rights, they first needed legal institutions (prosecutors and judges, but also government ministers who could issue authoritative administrative directives) to endorse their view that acupuncture constituted medical treatment under the Code de la Santé Publique. Second, medical bodies needed convincing that acupuncture was a legitimate, specialized medical technique. These included the Ordre des Médecins, who adjudicated matters of professional practice, the Académie de Médecine, whose reports represented the state of knowledge in medicine, but also those in the CNAM. Indeed, reimbursement (via CNAM) held practical and symbolic significance, because doctor-acupuncturists wanted to offer patients acupuncture under conditions financially comparable (for doctors and patients) to other types of medical treatment.

To achieve these aims, de La Fūye and others institutionalized "French medical acupuncture" through the Société Française d'Acupuncture (SFA) in 1943 and the Syndicat National des Médecins Acupuncteurs de France (SNMAF) in 1947.<sup>11</sup> These coexisted with

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Soulié de Morant : Le premier expert français en acupuncture," *Rev. Syn.* 131 (2010): 373–99.

<sup>10</sup> Article 40 of the Code de Procédure Penale allows private parties to alert prosecutors of illegal activities. For more on La Fūye, see Roger de La Fūye, *Traité d'acupuncture* (Paris : Librairie le François, 1956); and La Fūye *L'acupuncture moderne pratique* (Paris: Librairie le François, 1976).

<sup>11</sup> For a summary of the vision and claims of doctor-acupuncturists, see Syndicat National des Médecins Acupuncteurs de France, *Statuts de l'acupuncture en France, présentés à*

‘traditionalist’ acupuncture associations. Although these were also made up mostly of doctors, their position was that acupuncture should remain rooted in its traditional practice and philosophy rather than made to look more scientific, or biomedical. As a consequence, they did not feel that acupuncture should necessarily be reserved to those who held medical degrees (which included some doctors too, albeit with a different vision). Notably, this was the position of the Société d’Acupuncture, created by Soulié de Morant’s followers in 1945. Over the following decades, acupuncture institutions underwent further reorganization, driven by personal conflicts and competing visions among doctor-acupuncturists.<sup>12</sup> But a division between “modernists” and “traditionalists,” continued, with each representing conflicting views about the relationship between acupuncture, science, and philosophy.

The SFA and the SNMAF had some notable success. In 1949, the CNAM agreed to reimburse acupuncture consultations (at a low level). Although signaling a possible space for acupuncture in state-backed medicine, the reimbursement did not reflect the duration of a consultation. In 1953, the Academie de Médecine endorsed doctors’ exclusive right to practice acupuncture, a position echoed over subsequent years by successive Health Ministers. Incremental recognition continued, with notable successes at the end of the 1970s. In 1979, the Ordre des Médecins sanctioned the title of *acupuncteur*, and the CNAM modestly increased the reimbursement rate for consultations, raising hopes that a higher standing for acupuncture was within reach.

Doctor-acupuncturists also sought to develop case law that would bar nonmedical practitioners. This intensified in the 1970s as acupuncture (and its practice by nondoctors) grew popular. The SNMAF initiated a systematic campaign to fight “illegals” in court, yet the

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*l’appréciation de l’Académie de Médecine de la Faculté de Médecine et des Pouvoirs Publics* (Paris: SNMAF, 1951).

<sup>12</sup> For a detailed account, see Lucia Candelise, “La médecine chinoise dans la pratique médicale en France et en Italie, de 1930 à nos jours : Représentations, réception, tentatives d’intégration” (PhD diss., École des Hautes Études en Sciences Sociales, 2010).

resultant judgments were not initially consistent, as the case of Charles Laville-Mery demonstrates. A reputed acupuncturist, Laville-Mery held no medical qualifications and was tried for illegal medical practice in 1972, after the SNMAF denounced him to local prosecutors. Despite growing consensus over this interpretation of the law, Laville-Mery was acquitted. The court adopted a more open approach to the facts, focusing on questions of legitimacy rather than a strict reading of legality; successful treatment merited a certain toleration. They sided with Laville-Mery, whose legal representative made a dramatic plea for exoneration: “If you find him guilty, you should also convict Our Lady of Lourdes.”<sup>13</sup> However, some years later, on appeal, and after a further intervention from the SNMAF, Laville-Mery was found guilty and fined 4,000 francs. Yet, he continued to practice, despite further prosecution and conviction (initiated by the SNMAF), and enjoyed an otherwise successful career.<sup>14</sup>

Even so, the position of the French courts hardened over the subsequent decade. In 1982, the Cour de Cassation held that acupuncture should be practiced exclusively by doctors, thereby establishing the legal precedent that formally bound lower courts.<sup>15</sup> Still, the impact of case law on boundary setting by the SNMAF and others was limited. To begin with, enforcement was difficult, as nondoctors continued to use acupuncture despite a clearer sense of its illegality. Also, although authorized acupuncture was now limited to doctors, no formal qualifications were required by legal or medical institutions to determine which doctors could claim to be acupuncturists; the title was not protected, nor was it attached to any stipulatory training. Consequently, the practice itself split in two, developing legal and illegal branches, and within the former, disagreements among professionals endured about the training necessary to produce qualified doctor-acupuncturists. Until the early 1980s, the early

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<sup>13</sup> “Un acupuncteur est relaxé par le tribunal de Versailles,” *Le Monde*, 24 November 1972.

<sup>14</sup> H. Eraud, *L’acupuncture en pratique* (Paris: Chiron, 1988); Candelise, *La médecine chinoise* (cit. n. 12).

<sup>15</sup> For example, see Cour de Cassation, *Chambre Criminelle du 30 Mars 1982*, available at <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007523786/>

prominent practitioners of acupuncture controlled association-led schools. Yet they failed to unify the practice around national standards and lacked backing from medical faculties. In 1982, however, the UFR Santé, Médecine, Biologie Humaine, Université Paris XIII (Bobigny) offered the Diplôme Universitaire de Médecines Naturelles (DUMENAT), the first course for doctors on alternative techniques, including acupuncture.<sup>16</sup> Doctor-acupuncturists quickly mobilized connections to several universities, setting up further specialized diplomas, which, by 1984, included programs in Marseille, Lille, Lyon, and Bordeaux.<sup>17</sup> Unifying these programs through a nation-wide diploma was a main issue over the following years, as we elaborate below.

#### **REINVENTING HERBALISM:**

##### **THE (RE)NEGOTIATION OF LEGAL MONOPOLIES**

The story of herbalism followed a different trajectory than that of acupuncture and offers another vantage point on the policy debates of the 1980s. Herbalism thrived in the social climate of the 1970s,<sup>18</sup> as people sought other forms of health care and became more ecologically aware. Calls for a return to the “natural” triggered increased public interest in medicinal plants.<sup>19</sup> By the start of the 1980s, herbalists collectively challenged the exclusive rights to medicinal plants that had been granted to pharmacists in 1941. They were not alone in this, as other plant enthusiasts were already challenging pharmacists’ monopoly. One

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<sup>16</sup> Dominique Traverso, “La pratique médicale alternative: L’expérience de l’homéopathie et de l’acupuncture,” *Sociologie du Travail* 35 (1993): 181–98, <https://doi.org/10.3406/sotra.1993.2118>; François Laplantine and Paul Louis Rabeyron, *Les médecines parallèles* (Paris: Presses Univ. de France, 1987).

<sup>17</sup> J. E. H. Niboyet, *Rapport sur certaines techniques de soins ne faisant pas l’objet d’un enseignement organisé au niveau national* (Paris: Maisonneuve, 1984).

<sup>18</sup> Florian Charvolin, “L’invention du domaine de l’environnement: Au tournant de l’année 1970 en France,” *Strates: Matériaux pour la Recherche en Sciences Sociales*, no. 9 (1997), <http://journals.openedition.org/strates/636>; Vanessa Manceron and Marie Roué, “L’imaginaire écologique,” *Terrain: Anthropologie & Sciences Humaines*, no. 60 (2013): 4–19, <https://doi.org/10.4000/terrain.15032>.

<sup>19</sup> Elzière, “Des médecines dites naturelles” (cit. n. 5).

example was Maurice Messegué, a personal healer to various celebrities, who had advocated for natural and plant medicine since the 1960s and regularly appeared in the press.<sup>20</sup> Arguing that medicinal plants should be freely accessible (and pharmacists should not have exclusive rights to them), he used and distributed plants in his own healing practice. Incensed, the Ordre des Pharmaciens denounced him for illegal practice of pharmacy. Messegué was prosecuted and found guilty many times; but, as with illegal acupuncturists, he never stopped practicing.<sup>21</sup>

In contrast to Messegué's call for liberalization of medicinal plant sales, herbalists saw themselves as professional plant experts who were reclaiming a legal right to sell such plants alongside (or even instead of) pharmacists.<sup>22</sup> Herbalists had provided everyday health care for centuries and were recognized by the state as a certified health profession from 1803 until 1941.<sup>23</sup> The Certificat d'Herboristerie was rescinded following changes to pharmaceutical regulations during the war-time Vichy government, with only those already certified allowed to continue to practice until retirement.<sup>24</sup> By the 1970s, the number of certified herbalists had dwindled. A new generation of herbalists started campaigning on two platforms. First, they argued that restoring the *certificat* was a matter of preserving rural knowledge fostered over generations. Second, in contrast to other plant sellers, they claimed they were simply returning to an earlier status quo as lawful providers of health care, pre-Vichy. Both arguments, however, were based on imagined dichotomies that obscured a more complex history of the profession.

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<sup>20</sup> Maurice Mességué, *Des hommes et des plantes* (Paris, Le Livre de Paris, 1974); Mességué, *Pour les guérisseurs et la médecine libre/Fernand Mouquin, Contre les guérisseurs et la médecine libre* (Nancy: Berger Levrault, 1967).

<sup>21</sup> "Le guérisseur Maurice Mességué est condamné à 100,000 francs d'amende," *Le Monde*, 14 March 1951.

<sup>22</sup> Ida Bost, *Herbaria: Ethnologie des herboristes au temps the certificat: 1803-1941* (Paris: L'Harmattan, 2019) ; see also Mireille Ausécache, "Des aliments et des médicaments: Les plantes dans la médecine médiévale," *Cahiers de Recherches Médiévales et Humanistes*, Volume no. 13 (2006): 249–58, <https://doi.org/10.4000/crm.866>

<sup>23</sup> As per the 1803 Loi du 21 Germinal an XI, Art. 37, Titre 4..

<sup>24</sup>; Jean-Paul Gaudillière, "Professional and Industrial Drug Regulation in France and Germany: The Trajectory of Plant Extracts," in *Ways of Regulating Drugs in the 19th and 20th Centuries*, ed. Gaudillière and Volker Hess (London: Palgrave Macmillan, 2013), 66–96

To begin with, herbalists' portrayal of themselves as holders of rural and "ancestral" knowledge was a reinvention. Ida Bost recounts how, confronted by the 1930s' "Golden Age" of pharmacy, herbalists working before World War II no longer emphasized their ancestral and rural roots, and adapted to scientific trends while presenting themselves as quasi scientists. They also organized into national and regional associations.<sup>25</sup> Second, the legality of herbalism had been more fragile than the new generation of herbalists suggested. The 1803 law that created the *certificat* was unclear over the jurisdictional boundary between herbalists and pharmacists, and thereby effectively undermined the legality of herbalism. It granted pharmacists exclusive rights to sell "medicines," yet the boundary between medicine and medicinal plant was (and continues to be) unclear, as the form and presentation varied with each new remedy.<sup>26</sup> Pharmacists and herbalists disagreed over whether remedies were "just plants" or medicines, and who could supply them. Consequently, herbalists were often accused and convicted of encroaching upon the pharmacists' monopoly.<sup>27</sup> While some did so knowingly to increase their small income, others crossed the line inadvertently. Yet, during the nineteenth century and into the twentieth, courts exhibited a certain tolerance, perhaps owing to the lack of legal clarity, or perhaps simply because herbalists were popular.<sup>28</sup> Finally, the *certificat*'s withdrawal came after intense pressure from pharmacists. Herbalists of the 1970s portrayed the 1941 law as a historical aberration adopted by a discredited government, yet it had a much longer history; pharmacists had sought for decades to bring most medicinal plants

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<sup>25</sup> Bost, *Ethnologie des herboristes* (cit. n. 22).

<sup>26</sup> Marie-Danièle Campion, "Les résonances actuelles de la loi de Germinal: Monopole pharmaceutique et exercice illégal de la pharmacie," *Revue d'Histoire de la Pharmacie* 91 (2003): 395–406, <https://doi.org/10.3406/pharm.2003.6296> .

<sup>27</sup> Olivier Faure, *Les Français et Leur Médecine Au XIXe Siècle* (Paris: Belin, 1993); Campion, "Les résonances actuelles » (cit. n. 26).

<sup>28</sup> Sophie Chauveau, "Genèse de la 'sécurité sanitaire': Les produits pharmaceutiques en France aux XIXe et XXe siècles," *Revue d'Histoire Moderne Contemporaine* 2 (2004): 88–117.

within their monopoly (barring the most innocuous, which they believed could go on general sale because they required no expertise).<sup>29</sup>

Far from marking the end of a straightforward “legal” practice, the 1941 reform brought an end to decades of doubt and legal tensions; the *certificat* era was, at best, a complex period of negotiated legality. Conversely, the withdrawal of the *certificat* did not eliminate conflicts over medicinal plants. Pharmacists held a tighter legal grip over plants, but many plants were accessible outside pharmacies, either via the dwindling number of certified herbalists or their unlawful sale by others. As Mességué demonstrated, illegal sellers did not all claim to be herbalists but embraced a more fluid identity as lovers of nature and plant medicine. In response to continued widespread use, the government released thirty-four plants from the pharmaceutical monopoly in 1979, clearing them for general sale.<sup>30</sup> This reform, first suggested by prewar pharmacists, hinged on the idea that these plants posed no serious risks and did not need to be attached to any particular expertise; it thereby implicitly denied a space for herbalists as experts.

Campaigning for the *certificat*'s reinstatement began in earnest during the 1980s. Herbalists came from different disciplinary backgrounds, including botany, agriculture, and even pharmacy, with some pharmacist-herbalists in open conflict with their professional institutions. Indeed, the Ordre de Pharmaciens prevented registered community pharmacists from selling medicinal plants exclusively; those who attempted to do so risked losing their professional rights. The Association pour le Renouveau de l'Herboristerie (ARH) formed in 1982 with the aim of gaining support from politicians, as it campaigned to reestablish the

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<sup>29</sup> Bost, *Ethnologie des herboristes* (cit. n. 22).

<sup>30</sup> Décret 79-480 relatif à la vente au public des plantes médicinales inscrite à la pharmacopée, *Journal Officiel de la République Française* (**hereafter** *Journal Officiel*), 22 June 1979, p.1486. (In French law, a décret is a form of legislation issued by the French President or – as here - Prime Minister)

*certificat*.<sup>31</sup> The ARH also offered space to organize collectively and professionalize herbalism through coherent and standardized curricula. Hence, the herbalist Patrice de Bonneval opened the Ecole des Plantes de Lyon in 1982, while ethnobotanist Clotilde Boisvert created the Ecole des Plantes de Paris in 1984. Both schools formalized professional training, seen as an important part of herbalists' campaign for legal recognition. As we explore below, this would bring some practical, if not legal, success.

The experiences of acupuncturists and herbalists demonstrate how tensions over jurisdictional claims to practices or knowledges underpinned struggles for legal recognition. While doctor-acupuncturists diverged from nonmedical acupuncturists, herbalist-pharmacists joined nonmedical herbalists to reclaim their unique expertise in medicinal plants. As the medical and pharmaceutical professions policed the boundaries of medical practice, the central government had no direct involvement in such conflicts. This was to change, however, as tensions rose and campaigns gathered momentum.

#### **ORGANIZING *LES MÉDECINES DIFFÉRENTES*, 1981–1988**

The early 1980s was a rare period of sustained engagement with alternative healing for the central government. Alternative therapies enjoyed public success by the time François Mitterrand became president in 1981, and they were also subject to intense legal and professional struggles. Moreover, Mitterrand had an interest in alternative healing that traversed his personal life and political programs; this configuration presented an opportunity for alternative healing to be debated by the central government.<sup>32</sup>

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<sup>31</sup> *Bulletin de liaison de l'Association pour le Renouveau de l'Herboristerie*, Volume 1 (1982).

<sup>32</sup> For example, see “Quand François Mitterrand faisait peur aux médecins,” *Le Quotidien du Médecin*, 15 May 2012. For commentary, see Matthew Ramsey, “Alternative Medicine in Modern France,” *Med. Hist.* 43 (1999): 286–322, <https://doi.org/10.1017/S0025727300065376>.



In 1982, Health Minister Jack Lalonde commissioned a report, to be authored by famed doctor-acupuncturist Dr. Jean N. H. Niboyet, and published in 1984 under the title ‘Rapport sur certaines techniques de soins ne faisant pas l’objet d’un enseignement organisé au niveau national’ (Healing techniques not subject to nationally standardized teaching). In effect, the report was a description of selected alternative therapies and the challenges that their teaching and regulation raised. It largely echoed the concerns of doctor-acupuncturists over the inadequacy of current training.<sup>33</sup> However, the report was not limited to acupuncture; it examined those methods Niboyet considered sufficiently effective, and knowledge based, to warrant being taught in medical schools . This included acupuncture, homeopathy, phytotherapy, and massage techniques, while others, such as mesotherapy, sophrology, or naturopathy, were excluded as either too esoteric, insufficiently understood, or too infrequently used to warrant standardized teaching. Providing individual conclusions with a discussion of each technique, the report suggested that training within medical faculties should be generally improved (with the exception of phytotherapy, which interested doctors could audit in schools of pharmacy).

But Niboyet also took a firm position on ongoing legal and professional conflicts. Unsurprisingly, given his own position, he sided with doctors and pharmacists who considered alternative healing (at least its most established techniques) to be clinical techniques that ought to be used exclusively by health professionals. Niboyet argued that “illegals” should not use any of the therapies under review, meaning the claims of herbalists and illegal acupuncturists for a legal right to practice should be rejected.<sup>34</sup>

Debates over the respective rights of doctors, pharmacists, other healers, and patients intensified following Niboyet’s report. That (some) alternative healing could be taught in

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<sup>33</sup> Niboyet, *Rapport sur certaines techniques* (cit. n. 17).

<sup>34</sup> *Ibid.*, 52.

medical faculties was welcomed by those doctors who practiced such techniques, but was criticized by others, reopening debates over their scientific validity.<sup>35</sup> In turn, alternative healing supporters (of a range of therapies) mobilized, marched, and created a collective to represent therapists and users that was called the Collectif pour la Défense et l'Experimentation des Médecines Alternatives (CODEMA).<sup>36</sup>

This backdrop, coupled with Mitterrand's own interest in the issues, triggered another policy intervention. In February 1985, Mitterrand responded to a consumer association's request to revisit the role of alternative therapies in French health care. Describing this as a "social reality that could not be ignored," Mitterrand promised to organize a working group on the matter.<sup>37</sup> In April 1985, Georgina Dufoix, ministre des affaires sociales et de la solidarité familiale (and known enthusiast of alternative healing) and Edmond Hervé, Secrétaire d'État à la santé convened such a working group (Groupe de Reflexion Médecines Différentes), which was tasked with considering how to assess the safety and efficacy of *les médecines différentes*. The report by the working group submitted in January 1986, and titled 'Évaluer les médecines différentes, un défi ?' ('Evaluating alternative medicines, a challenge?'), also discussed the issues of teaching and regulating both research and practice.<sup>38</sup>

Despite predominantly comprising doctors and scientists, half of the working group's eight members had explicit interests in alternative therapies; this was perhaps unsurprising,

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<sup>35</sup> Jean-Yves Nau, "Les homéopathes accusent l'Académie de médecine de 'mépriser' leur discipline," *Le Monde*, 16 May 1984.

<sup>36</sup> François-Xavier Chaboche and Pierre Magnant, "Usagers: Notre corps est à nous," *Autrement* no.85, Décembre 1986, 212–17; Alexandre Klein, "Contribution à l'histoire du 'patient' contemporain. L'autonomie en santé: Du self-care au biohacking," *Histoire, Médecine et Santé* 1, (2012), 115–28.

<sup>37</sup> Letter from M. François Mitterrand to M. André Bergeron on the development of "des médecines douces," 26 February 1985, Paris, reproduced in the report 'Médecines différentes'; Groupe de réflexion Médecines différentes, (Working group 'Alternative medicines') *Évaluer les médecines différentes, un défi ? : Rapport au Ministre des Affaires Sociales et de la Solidarité Nationale et au Secrétaire d'État chargé de la santé* (Paris: Documentation Française, 1986), 13.

<sup>38</sup> Groupe de Reflexion Médecines Différentes, *Évaluer les médecines différentes* (cit. n. 37).

given Dufoix's sympathies. Dr. Pierre Cornillot, a known figure of debates on the role of nonbiomedical practices, who created the DUMENAT (the first university course for doctors on alternative therapies).<sup>39</sup> Two other members, Drs. Jacques Lacaze and Pierre Tubery also belonged to the CODEMA, while another member, Pierre Magnant, was CODEMA's president.<sup>40</sup> Signaling its intention to take alternative medicine seriously and noting its public demand, this working group, made up mostly of scientists and doctors sympathetic to alternative healing, nevertheless had particular expectations regarding such therapies. Considering them *potentially* useful only if integrated with biomedicine and practiced by qualified health professionals, the report insisted on the following: "There can not be two medicines, one official and the other parallel. The one and only medicine must integrate the contributions of different techniques, without being expected to embrace the associated philosophies or theories."<sup>41</sup> Hence, although medicinal plants were deemed potentially useful, the report saw them as dangerous if dispensed by those who were not suitably qualified, and advised that pharmacists should therefore retain exclusivity in their dispensation, though possibly with additional training. In short, the report would not help the cause of herbalists campaigning for the certificate's reinstatement. Other therapeutic practices under review, including acupuncture, were seen as medical techniques and therefore were to "be practiced by medical doctors." (*des médecins*).<sup>42</sup>

The report also acknowledged the limitations of applying the regulatory regime of medical testing to alternative medicine. Stressing the importance of providing evidence of

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<sup>39</sup> P. Cornillot, "La montée des médecines différentes," in "Médecines différentes," special issue, *Revue Française Des Affaires Sociales* (1986): 7–16; C. Duraffourd, L. D'Hervicourt, and J. C. Lapraz, "La phytothérapie en médecine: Place actuelle et perspective," in "Médecines différentes," special issue, *Revue Française Des Affaires Sociales*, 1986: 33–5. The acronym DUMENAT is the *Diplôme Universitaire de Médecines Naturelles*.

<sup>40</sup> Groupe de Reflexion Médecines Différentes, *Évaluer les médecines différentes* (cit. n. 37).

<sup>41</sup> *Ibid.*, 33.

<sup>42</sup> *Ibid.*, 29.

safety and efficacy, it nonetheless suggested modifying procedures to facilitate the approval of alternative products and techniques. This included a lighter touch for approving plant-based (rather than pharmaceutical) medicines, and the revision of clinical trial regulations. Finally, the report called for better research into current practices in France, including the philosophical basis of each. Acknowledging the relevance of philosophical inflections to therapeutic practice resonated with many doctor-acupuncturists at the time, but was—and is—unusual in policy discourses.

While the reports from Niboyet and from the working group Dufoix had convened signaled that public interest in alternative therapies had become a matter of governmental concern, they also cemented the vision of influential groups of practitioners such as doctor-acupuncturists that the lawful use of such therapies should be restricted to doctors (or, where plants were concerned, pharmacists). The reports promoted—quite literally—a different kind of medicine, at least within the legal limits to practice implied by this term (i.e., that they should only be practiced by qualified medical professionals – doctors, or pharmacists). Regardless, seeing an opportunity for alternative healing to become more established in medical practice, Dufoix acted expeditiously. In December 1985, before even receiving the finalized report, she created the Fondation de Recherche sur les Thérapeutiques Alternatives (FRTA), which she tasked with carrying out the additional research on alternative healing the report was expected to recommend.<sup>43</sup> The following month, she set up a new center in Cannes for research on alternative healing in clinical practice.<sup>44</sup> But on March 20, 1986, two months after the report's

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<sup>43</sup> Décision du 12 Décembre 1985 portant création d'une Fondation de Recherches sur les thérapeutiques alternatives (Under French law a 'décision' is a type of binding administrative act.); "Les experts des thérapeutiques alternatives," *Le Monde*, 12 March 1986 ; Franck Nouchi, "Pour en finir avec les rieurs," *Le Monde*, 5 March 1986.

<sup>44</sup> Jean-Yves Nau, "Une clinique pour médecines douces," *Le Monde*, 3 February 1986; The centre was formally set-up by the Arrêté du 13 Janvier 1986 portant création par la Fondation de Recherches sur les Thérapeutiques Alternatives d'un établissement de santé expérimental, *Journal Officiel*, 23 January 1986, p. 1290 (An arrêté is an administrative legal decision issued by a minister)/.

submission, the Socialist Party lost the parliamentary elections. Although French constitutional law did not require Mitterrand to resign as president, he would work for the next five years with a government from the rival Conservative Party. Dufoix's Conservative replacement—Michèle Barzach—did not share her enthusiasm for alternative healing, and Mitterrand's own influence on the issue was damaged by his weaker position over the new government.

This new political landscape significantly hampered Dufoix's initiatives. The FRTA was short lived. In June 1986, Barzach also reneged on Dufoix's plans for the Cannes center, which had already attracted opposition and legal appeals by the boards of local hospitals.<sup>45</sup> Proposals for a new system to license for plant-based medicines that would be less demanding than that applied to pharmaceuticals were abandoned (although reconsidered and adopted under EU impetus some twenty years later). Debates in parliament during this time indicate a shift in interest and approach, yet also a degree of consistency in the practical implications of opening up the field of alternative medicines.

Between 1986 and 1988, the new ministers were pressed to clarify their position in relation to previous reports and initiatives for the evaluation and regulation of alternative therapy. They expressed support for two key elements of conclusions in the 1986 report by the Groupe de Reflexion Médecines Différentes. The first was that all therapeutic practices should be provided by health professionals (doctors, or for plants, pharmacists: the government had “no intention to create new health professions”). The other was that standards of medical research— including stability, reproducibility, and nontoxicity in clinical trials should be obeyed.<sup>46</sup> However, ministers distanced themselves from Dufoix's well-known interest in “les

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<sup>45</sup> , G. P. “Mme Barzach annule la création d'un centre de recherches sur les ‘médecines douces,” *Le Monde*, 23 June 1986.

<sup>46</sup> Question parlementaire 10837 de M. Joseph Menga, 20 October 1986 (and response) *Journal Officiel*, 9 Novembre 1987, p. 6171. (NB : Questions parlementaires are formal questions tabled by MPs to governmental ministers, enabling them to scrutinise governmental action on specific policy matters.)

médecines différentes” and answered questions regarding her legacy, and the report she commissioned in 1986 via the broader issue of medical research. For example, on October 10, 1987, when asked about the future of the evaluation of alternative therapies first proposed through the FRTA, Barzach replied: “The government deems it necessary to evaluate all therapeutic methods, including those mentioned by the honourable parliamentarian; this is why it has recently created a National Committee for Medical Evaluation.”<sup>47</sup> By the 1990s, such statements were also accompanied by an explicit reminder that any practice of alternative therapies was subject to the restrictions imposed by the Code de la Santé Publique.<sup>48</sup>

Overall, while Dufoix’s stint as governmental minister with oversight for health saw unparalleled state enthusiasm for alternative healing, it also strengthened the notion that alternative therapies should be delivered by those qualified as doctors or (in some cases) pharmacists. This was concretized by successive governments following March 1986; less enthusiastic about alternative medicine, these governments nevertheless sought to maintain boundaries between legal and illegal practice along existing professional lines. Although most proposals from Dufoix’s era that aimed to enhance the place of alternative healing in medical practice were overturned, some did affect the delivery of education and training in medical faculties.

#### **LEGALITIES FROM OFFICIAL DEBATES TO EVERYDAY PRACTICE:**

##### **ACUPUNCTURE AND HERBALISM FROM THE LATE 1980s TO THE 1990s**

Doctor-acupuncturists, again, drove these changes in education and training. Emboldened by the publication of the Niboyet report and that of Dufoix’s working group , and building on

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<sup>47</sup> Réponse à la question parlementaire 15721 de Mr Robert Borrel, *Journal Officiel*, 10 Octobre 1987, p.5834.

<sup>48</sup> Question parlementaire 35772 de Mme Marie-Joséphine Sublet, *Journal Officiel*, 19 Novembre 1990, p.5294; Réponse à la question parlementaire 35772 de Mme Marie-Joséphine Sublet, *Journal Officiel*, 4 Février 1991, p.431.

work previously carried out in individual universities, a group of doctor-acupuncturists with faculty positions opened the first Diplôme Interuniversitaire (DIU) d'Acupuncture. Key figures operated across different associations, faculties, and expert working groups: Professor Cornillot led discussions on behalf of the faculty of Bobigny; Professor Jean Bossy, who oversaw the work required for the DIU, had created the diploma of acupuncture in the Université de Montpellier three years before; and Niboyet was also involved until his death in 1986.<sup>49</sup> Over two years, this influential group formalized the first national standards for acupuncture. This was a significant achievement, providing for the first time an agreed-upon set of criteria backed by medical faculties to which aspiring acupuncturists could be held.

With the DIU established, doctor-acupuncturists seemed set to end the 1980s successfully. Yet doubts emerged over the effects of this institutional victory. First, even as the DIU was created, interest in acupuncture among doctors and users waned, with student numbers starting to decrease—a trend the DIU failed to reverse.<sup>50</sup> This was partly because the healing market had diversified; acupuncturists (practitioners and teachers) struggled with competition from new alternative practices.<sup>51</sup> Doctor-acupuncturists initially hoped the DIU would lead to a fuller recognition by the Ordre des Médecins, consecrating acupuncture as a *spécialité*, increasing its prestige, and leading to higher rates of reimbursement (and therefore income) by the *sécurité sociale*. However, this hope was dashed. Moreover, acupuncture encountered additional challenges; AIDS made needles suspicious, and, as noted, the investment in research anticipated under Dufoix was not enacted by Barzach.

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<sup>49</sup> Candelise, *La médecine chinoise* (cit. n. 12); Traverso, “La pratique médicale alternative” (cit. n. 16).

<sup>50</sup> As an example, the Institut d'Acupuncture de France saw its numbers drop from 587 students in 1980 to 182 in 1986; see Candelise, *La médecine Chinoise*, (cit. n. 12), 413.

<sup>51</sup> Techniques such as sophrology, naturopathy, and Reiki had started to gain popularity. At the same time, healers practicing “traditional Chinese medicine,” which included techniques other than acupuncture (e.g., Shiatsu), became more visible; see Fanny Parent, “Seuls les médecins se piquent d'acupuncture?,” *Terrains & Travaux* 25 (2015): 21–38; and Grisoni, “De la naturopathie rurale” (cit. n. 4).

The second doubt regarding acupuncture's institutional victory involved the associations of doctor-acupuncturists. Though these had previously led campaigning for the profession, they had since become less effective at setting boundaries for nonmedical practitioners and those who failed to follow their curriculum (or, after 1987, the DIU's curriculum). The previous work of doctors who gained recognition as the "legal and legitimate" providers of acupuncture was still relevant. For example, the Syndicat des Acupuncteurs Traditionnels (SAT), created in 1982, unified claims for legal recognition from nondoctor acupuncturists and wrote to Niboyet as he prepared his report. However, in 1993, the Cour de Cassation, following a long judicial procedure initiated by the Syndicat National des Médecins Acupuncteurs de France, dissolved the SAT by applying a law that found fault with the association's aims. That is, following previous decisions that found only doctors could legally practice acupuncture, the court ruled the Syndicat illegal, because it represented and promoted acupuncturists without medical qualifications.<sup>52</sup> Yet enforcement was (again) ineffective, as new, similar institutions grew over the following decades, widening the gap between the law "on paper" and its implementation.<sup>53</sup> Despite their illegality, nonqualified acupuncturists organized and strategized through a range of activities from political lobbying to providing legal advice and support for practitioners prosecuted for illegal medical practice. Consequently, they created new zones of tolerated illegality, whereby the nonmedical practitioners became visible and generated their own norms and codes of action to enact legal claims.<sup>54</sup> Despite

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<sup>52</sup> For the text of the decision, see: Cour de Cassation, Chambre Civile 1, 6 Octobre 1993, 90-13453, available at <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007198501/>; Fanny Parent, "The Slow Integration Process of Chinese Medicine in France," *Gouvernement et Action Publique* 3 (2019): 59–82

<sup>53</sup> Parent, "Seuls les médecins se piquent d'acupuncture?" (cit. n. 51).

<sup>54</sup> Emilie Cloatre and Mairead Enright, "'On the Perimeter of the Lawful': Enduring Illegality in the Irish Family Planning Movement, 1972–1985," *Journal of Law and Society* 44 (2017): 471–500; Lucy Finchett-Maddock Protest, *Performance and the Commons: Performances of Law and Resistance* (Abingdon, UK: Routledge, 2016); Simon Halliday and Bronwen Morgan, "I Fought the Law and the Law Won? Legal Consciousness and the Critical Imagination," *Current Legal Problems* 66 (2013): 1–32.



benefiting from an exclusive right to practice acupuncture in the mid-1980s, doctor-acupuncturists also lost ground.

During the same period, herbalists' legal status, and the limited reception of their claims by political actors, was similarly misaligned with their everyday successes. Despite efforts toward (re)institutionalization in the early 1980s, herbalists were excluded from the government's attempts to formally organize alternative medicine. Instead, the government entrusted medical professionals who, unsurprisingly, concluded that laws should remain unchanged regarding illegal practitioners. From 1987, governmental responses to parliamentary questions confirmed that successive governments would not recreate a diploma for herbalists; pharmacists were considered sufficiently trained to provide medicinal plants, and, in any event, the liberalization of thirty-four plants in 1979 from the pharmaceutical monopoly was presented as facilitating greater access.<sup>55</sup> This was, in fact, a firm rebuttal to herbalists' calls for legal recognition and to their claims to expertise; some medicinal plants were available for general sale and required no special expertise because they were innocuous, while those that required expertise benefited from that of pharmacists.

Just as with nonmedical acupuncturists, the government's reluctance to recognize herbalists as legitimate contrasted with public attitudes. Indeed, herbalism blossomed in France from the late 1980s and 1990s onward. Herbalism schools grew, harmonizing teachings and the types of knowledge that the practice relied on. They balanced scientific and traditionalist roots toward a holistic understanding of what "knowing about medicinal plants" should entail. Thus, botany, chemistry, and physiology were taught in classrooms alongside both theoretical and practical knowledge of individual plants and their traditional usage. Initially excluded from both Niboyet's and the 1986 report, herbalism consequently avoided the highs and lows

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<sup>55</sup> Question parlementaire 32613 de M. Queyranne Jean-Jack, *Journal Officiel*, 9 November 1987, p.6151; Réponse à la question 32613 de M. Queyranne Jean-Jack, *Journal Officiel*, 11 January 1988, p.162.

experienced by acupuncture. Herbalists presented a united front as a profession, claiming their expertise—and legal right to sell medicinal plants—should be recognized alongside that of pharmacists'. Furthermore, while selling medicinal plants (barring those liberalized in 1979) remained illegal, it became clear the law was not systematically enforced. Herbalists practiced within a zone of juridical tolerance and adopted tactics to avoid detection, such as simplifying product packaging and either avoiding therapeutic claims or ensuring claims were modest (particularly regarding serious illnesses). Adjusting their vocabulary to avoid encroaching too obviously onto the terrain of pharmacists, they preferred to give advice verbally. Continuing prosecutions, often triggered by the *Ordre des Pharmaciens*, illustrated the precarious position of herbalists and plant sellers.<sup>56</sup> However, legal sanctions sometimes failed to discourage herbalists and instead provided opportunities to demonstrate misalignment between law and public demand; few pharmacies had the displays of raw plants seen in *herboristeries* and sought by the public. The popularity of medicinal herbs created a niche market for herbalists, who practiced in a gray zone of manageable illegality.<sup>57</sup> This does not mean herbalists were unchallenged by other plant enthusiasts during this time. Competition emerged from figures such as Rika Zarái, whose best-selling books and legal woes attracted public attention, to a new industry of natural remedies and plant-based products, while other popular professions, such

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<sup>56</sup> Examples of court decisions reaffirming the legal conditions of herbalist practice following such prosecutions include : Cour d'Appel de Colmar, Chambre des Appels Correctionnels, 18 June 1982 and Cour de Cassation Chambre Criminelle 18 January 1983, available at : <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007522770/> ; Cour d'appel de Poitiers, 17 décembre 1987 and Cour de Cassation, Chambre Criminelle du Mardi 6 Décembre 1988, 87-92.055, available at : <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007537305/>; Cour d'appel de Bordeaux 3ème chambre , du 15 janvier 1991 and Cour de Cassation Chambre Criminelle du 21 Novembre 1991, 91-81121, available at <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007548456>.

<sup>57</sup> Raphaële Garreta, *Des simples à l'essentiel* (Paris: Presses Univ. du Midi, 2007); Carole Brousse, *Ethnobotanique et herboristerie paysanne en France: Anthropologie de la relation des hommes au végétal médicinal (deuxième moitié du XXe siècle – première moitié du XXIe siècle)*, Thèse pour l'obtention du doctorat en ethnologie, Ecole Doctorale Espaces Cultures Sociétés, Université d'Aix-Marseilles (2018).

as naturopathy, also claimed knowledge over herbalism.<sup>58</sup> Yet, herbalists maintained a specific identity, supported partly by the narrative of the need to reinstate rather than imagine a new legal space of practice.

Overall, if in the 1980s central institutions had reaffirmed formally the principle that all legal therapeutic techniques should remain entrenched in existing health professions, the state and professional bodies had little direct influence over a growing field of illegal practice. This exposed the limits of state governance, while relegating alternative healing to a gray zone of limited oversight where vulnerabilities and anxieties were potentially heightened.

#### **FROM ‘ALTERNATIVE MEDICINES’ TO ‘SECTARIAN DEVIANCE IN HEALTHCARE’**

The 1980s and 1990s saw another significant shift, which reverberates even today; this was a growing concern about the influence of sects within French society. While not new, such concerns became a significant part of conversations around the legality and legitimacy of alternative healing during this period. Accounts of abusive cults in the 1960s gave rise to individual stories in the 1970s of young people lured (their families claimed) into cultish communities.<sup>59</sup> To an intrigued, anxious public, such stories signaled a social trend. Yet, the question of *sectes* continues to polarize; to the narratives of parents blaming cults for the withdrawal of their young adult children, critics offered a more complex reading in which young adults escaped the control of often conservative families, embracing the alternative lifestyle of a 1970s utopia.<sup>60</sup> Perhaps due to the high social capital of the families concerned, or because it spoke to existing media narratives in secular France, the former interpretation prevailed initially. Building upon their binary framing of abusers/victims, the families

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<sup>58</sup> For examples, see “Rika Zaraï inculpée,” *Le Soir*, 10 January 1989; and “Rika Zaraï inculpée d’exercice illegal de la pharmacie,” *Le Monde*, 10 January 1989.

<sup>59</sup> “Procès d’une secte,” *Le Monde*, 29 April 1965.

<sup>60</sup> Etienne Ollion, *Raison d’état: Histoire de la lutte contre les sectes en France* (Paris: La Découverte, 2017).

assembled associations that gained the sympathies of the French public, and thereafter the state; within a few years, personal tragedies had become a public matter.<sup>61</sup>

While fundamentally about religion and the meaning of French secularism, debates around sects also concerned alterity—and the space that Republican ideals allowed for it—more generally. Notably, from the 1980s, they influenced discourse surrounding alternative healing and its governance. Relatively early on in the mobilizations against sects, journalists and some officials linked spiritual communities to esoteric health practices. While family associations criticized healing practices of various churches and cults in the 1970s, such practices took center stage by the 1980s; healing had become both a gateway into vulnerable people's lives and evidence of sectarian influence. In 1981, after his son embraced zen macrobiotics, writer Roger Ikor created the Centre Contre les Manipulations Mentales (CCMM), which to this day is one of the main associations of victims of sects and their families. For Ikor, such diets were akin to sectarian devotion, a conflation amplified in his essays and statements by the CCMM.<sup>62</sup> This was an early example of a shift later seen in parliamentary debates when esoteric healing practices became a hallmark of sects, progressively casting renewed suspicion over alternative healing techniques.

Alain Vivien's 1983 parliamentary report marked the start of a policy engagement with sects and their governance, just as the socialist government was engaging positively with alternative medicines.<sup>63</sup> Vivien highlighted how the esoteric practices of some cults impacted health care; however, he did not make a general link between alternative healing and sects, as was articulated later. This report was sent to Dufoix as she was about to convene her working

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<sup>61</sup> Daniel Mornet, "Plusieurs associations de défense contre les agissements de certaines sectes vont être créées," *Le Monde*, 8 February 1975.

<sup>62</sup> Roger Ikor, *Je porte plainte* (Paris: Albin Michel, 1981); Ikor, *La tête du poisson: Les sectes, un mal de civilisation* (Paris: Albin Michel, 1983).

<sup>63</sup> Alain Vivien, *Les sectes en France: Expression de la liberté morale ou facteur de Manipulations? Rapport au premier ministre* (Paris: La Documentation Française, 1985).

group on les médecines différentes. But if this could have looked ironic a few years later, since promoting alternative healing would be seen as enabling the dangerousness of cults, 1986 report positioned itself differently. Its tethering of the legitimacy of alternative healing to scientific inquiry and its entrenchment in the biomedical professions was seen as a way to prevent dangerous esoteric practices. Echoing Vivien's own concerns with "gurus," the 1986 report concluded the following: "This huge wave of 'médecines différentes' carries numerous dangers. As in all crises, regression and a turn to obscurantism and cults of all kinds challenge the progress made in medicine and science. If the French want medicine to be enriched by new techniques, they certainly do not wish to be left to the hands of 'gurus.'"<sup>64</sup>

While Vivien's report did not immediately trigger policy action, its effects on alternative medicine were slowly felt over the following decade, just as governmental enthusiasm for alternative medicine began to wane.<sup>65</sup> Beyond the government's lack of interest after 1986, the late 1980s saw financial austerity in public health, which further marginalized lesser-proven techniques, including homeopathy and plant medicines.<sup>66</sup> Moreover, the black market for healing blossomed at that time; nonmedical acupuncturists and herbalists benefited from zones of juridical tolerance, but also competed with other illegal practitioners whose practices were less established and sometimes more esoteric. During this period, associations representing the families of sect victims continued to promote the notion of links between "esoteric therapies" and sectarianism; these links soon echoed in parliamentary discussions. While arguing that the phenomenon of sects was growing, some politicians expressed concerns that alternative medicine, and particularly its illegal practitioners, enabled such growth.<sup>67</sup> By

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<sup>64</sup> Groupe de Réflexion Médecines Différentes, 1986, p.35

<sup>65</sup> Ollion, *Raison d'état* (cit. n. 60).

<sup>66</sup> Much of homeopathy would be defunded in 1989.

<sup>67</sup> For such expressions of concern see for example : Questions de M. Jacques Guyard, *Journal Officiel*, 26 Juillet 1993, p. 2174 ; de M. Pierre Pascallon *Journal Officiel*, 31 Octobre 1994, p. 5384 ; de M. Serge Lepeltier, *Journal Officiel*, 27 Mars 1995; p. 1595 ; de M. Jacques

the end of 1995, a conflation of events had led to the governance of cults becoming a policy priority.

On December 23, 1995, l'Ordre du Temple Solaire, an organization long under review by antisect associations, orchestrated a mass suicide of its members. The episode captivated the imagination of the French public for many months, cementing fears built over the past two decades.<sup>68</sup> It might have remained a short-lived media sensation, but for the release of Jacques Guyard's parliamentary report the day before the mass-suicide was discovered.<sup>69</sup> Otherwise critiqued for its bluntness (including in the listing and categorization of sects it drew), Guyard's timely report nonetheless triggered broader policy shifts; for example, a new agency, the Observatoire Ministériel des Sectes, was constituted in 1996 to monitor and regulate sect activity.<sup>70</sup> Subagencies were also integrated in key areas, such as education, to boost training and support. A consensus soon emerged that a definition of sects could not be given as such, and it was thought that the state should instead focus on conduct; this included certain behaviors considered "sectarian," to which the public and public authorities should remain alert. Notably, some esoteric healing techniques constituted such sectarian behaviour.<sup>71</sup> While some argued for a new legal regime against sects, most accepted that the majority of activities deemed reprehensible were already criminalized. The law on illegal medical practice was considered as one example of pre-existing criminal laws that could be used to tackle sectarian behaviour.

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Guyard, *Journal Officiel*, 26 Juillet 1993, p. 2174 ; Réponse à M. Julien Dray, *Journal Officiel*, 12 Septembre 1994, p. 4561.

<sup>68</sup> Jean-Pierre Chantin, "Les sectes en France: Marges et dissidences," *Vingtième Siècle. Revue d'Histoire* 66 1 (2000): 67–78, <https://doi.org/10.3406/xxs.2000.4563>.

<sup>69</sup> Jacques Guyard, *Les sectes en France: Rapport fait au nom de la commission d'enquête sur les sectes*, Paris : Assemblée Nationale, (1995) ; Françoise Champion and Martine Cohen, "Les sociologues et le problème des dites sectes / Sociologists and the 'So-called' Sect Issue," *Arch. Sci. Soc. Relig.* 96, (1996) : 5–15, <https://doi.org/10.3406/assr.1996.1043> .

<sup>70</sup> Décret n° 96-387 du 9 mai 1996 portant création d'un observatoire interministériel sur les sectes, *Journal Officiel*, 11 Mai 1996, p. 7080.

<sup>71</sup> Jean-Louis Schlegel, "Pourquoi n'en finit-on pas avec les sectes?" *Esprit*, June 1997, 98–112.

In that respect, the impact of the law on illegal medical practice went beyond medicine itself, lending it a new significance in relation to broader issues of public morality.<sup>72</sup>

In 1998, the Observatoire became the (better-resourced) Mission Interministerielle de Lutte contre les Sectes (MILS). This was headed by Vivien, who argued for stronger measures against sects. The state system of surveillance grew rapidly as measures were taken at local and national levels that ensured extensive monitoring, further training of relevant actors (including those in education and health), a more systematic approach to public information, and a more detailed route toward intervention where needed. By 2000, as the MILS was about to become the Mission Interministerielle de Vigilance et de Lutte contre les Dérives Sectaires (Miviludes), the language and approach again shifted—this time from a fight against sects themselves to one against *les dérives sectaires* (sectarian deviance), with *manipulations mentales* a key characteristic.<sup>73</sup> As it worked to alert agents and the public about the societal risk posed by “sectarian practices,” the MILS saw alternative healing seen as particularly connected to such behaviors.<sup>74</sup> Consequently, when Miviludes was created in 2002, one of its subgroups was devoted to *les dérives sectaires dans la santé* (sectarian behavior in health care). The MILS final report welcomed this focus and portrayed alternative healing as a key area of concern over its six years of activity (1996–2001), describing it as involving

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<sup>72</sup> Circulaire du 29 février 1996 relative à la lutte contre les atteintes aux personnes et aux biens commises dans le cadre des mouvements à caractère sectaire, *Journal Officiel*, 5 Mars 1996, p.3409. (Under French law, a “*circulaire*” is an internal administrative document, designed to help public agents interpret and apply binding legislation. Here the *Circulaire* is concerned with the protection of persons and properties in the context of sectarian organizations)

<sup>73</sup> Arnaud Esquerre, “La manipulation mentale, cette mauvaise soumission,” *Les Cahiers de l’Unebévue* 20 (2002): 47–64.

<sup>74</sup> *Circulaire* DGAS/SD1 no 2000/501 du 3 Octobre 2000, relative aux dérives sectaires, unpublished in the *Journal Officiel*, available online at: <http://i.ville.gouv.fr/index.php/reference/457/circulaire-n-dgas-sd1-2000-501-du-3-octobre-2000-relative-aux-derives-sectaires>

“quackery,” “mafias,” and “cults.”<sup>75</sup> This, coupled with the concomitant shift in policy discourse from the *médecines différentes* of the 1980s to *les pratiques de soins non-conventionnelles à visée thérapeutiques* (nonconventional care practices with a therapeutic intent), sums up how state institutions came to characterize these practices; they viewed them as unconventional, explicitly not medicines, and only aiming to be therapeutic.

#### A NEW REGIME FOR EVERYDAY MONITORING OF ILLEGALITY

The incorporation of alternative healing into policies on cults affected their governance, as successive governments privileged decentralized everyday surveillance and delegated enforcement in combating cults.<sup>76</sup> Policing the boundary between legal and illegal healing was delegated to such a decentralized regime involving actors from the previous decades and Miviludes’s reliance on myriad sources of information.<sup>77</sup> Individuals concerned about potentially sectarian behaviour (be they family members, local authorities, or health professionals), could contact Miviludes directly, through its local representatives (often the *préfet de police*), or through associations that represented victims or their families, all of whom would feed the information back to Miviludes.<sup>78</sup> The repressive, top-down mode of governance was thus transformed; a broader range of individuals was enlisted to monitor their own and their families’ interactions with healers, blurring the public/private distinction in policing

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<sup>75</sup> MILS, *Rapport au Premier Ministre* (Paris: Mission Interministerielle de Lutte Contre les Sectes, 2001).

<sup>76</sup> For example, health is one of the fields that should be subject to ‘enhanced vigilance’ (‘une vigilance renforcée’) according to Circulaire DGAS/2A no 2006-241 du 1er Juin 2006 relative aux dérives sectaires, *Bulletin Officiel Santé, protection sociale et solidarités*, n°2006/7, 15 août2006, pp. 104-106.

<sup>77</sup> Miviludes, *Le dispositif public de lutte et de vigilance contre les dérives sectaires dans le domaine de la santé* (Paris: Miviludes, 2009).

<sup>78</sup> Circulaire du 27 mai 2005, relative à la lutte contre les dérives sectaires, *Journal Officiel*, 1<sup>er</sup> Juin 2005, Texte 8. ; Miviludes, *Le guide de l’agent public face aux sectes* (Paris: Miviludes, 2004).



health care practices. This shift toward greater self-government reflected wider shifts in French health care governance during the 1990s, where *agencification* (a turn towards a greater use of agencies acting semi-autonomously from the central state) and decentralization featured heavily.<sup>79</sup> In this instance, it occurred through events both within and outside of health care. However, not all legal infractions were directly overseen by this regime; Miviludes and its surrounding system of monitoring and enforcement were and remain concerned with “les dérives sectaires dans la santé,” rather than all illegal practice. But that system created another layer for alerting public authorities to the activities of some alternative healers, and at the same time attached additional meaning to the type of deviance illegal medical practice signified. This legal infraction became part of the toolbox also deployed to combat the influence of sects.

Although concerns over sectarianism in health care relate most explicitly to the esoteric, more established practices (e.g., acupuncture or herbalism) do not escape surveillance. The new regime’s gaze extends to a broad range of practices and practitioners. Some generate particular suspicion; Reiki, naturopathy, and a range of esoteric psychotherapies yield targeted surveillance. More established practices avoid such intense scrutiny, yet slippages between categories have made them vulnerable to similar readings, and have affected their regulation. This conflation is somewhat the result of overlaps between practices, such as acupuncture and “traditional Chinese medicine” (TCM) more generally (a label practitioners often use to include, for example, energy healing or some massage techniques), or between herbalism and the naturopathy offered by some practitioners.

At the same time, suspicions over the “unregulated/illegal healer” have reinforced notions from previous decades that even established practices should be exclusively provided by qualified health professionals (doctors or, for the sale of medicinal plants, pharmacists).

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<sup>79</sup> Daniel Simonet, “Assessment of New Public Management in Health Care: The French Case,” *Health Research Policy and Systems* 12 (2014): 1–9.

Medicine and medical qualifications have become guarantors of protection against sectarianism. Successive health ministers have emphasized TCM's difference from acupuncture practiced by doctors, noting that the latter was "regulated."<sup>80</sup> Miviludes also reminds users that they should only visit (regulated) medical acupuncturists. In 2011 and 2018, when two successive senatorial commissions reopened debates over selling medicinal plants and reinstating the *certificat*, representatives of the *Ordre des Medecins*, *Ordre des Pharmaciens*, and invited parliamentarians argued that creating a profession of herbalism, outside the regulatory oversight of the those associations, risked generating sectarian deviance.<sup>81</sup>

As a whole, debates over sectarianism in health draw lines between "regulated practices when practiced by health professionals" (regarded as safe), and those neither regulated nor practiced by professionals with medical degrees; it is thought users of the latter risk mental manipulation, sectarian deviance and, indeed, their health. Doctors (or pharmacists) are not inherently considered unlikely to be "deviant" (i.e., sectarian). Indeed, peers and politicians also frequently reopen the question of whether doctors should be allowed to use "unproven" techniques and argue that such practices threaten the standing of the medical profession as "haven of rationality."<sup>82</sup> But professional associations (e.g., *Ordre des Médecins* and *Ordre des Pharmaciens*) are considered reliable sources of institutional monitoring, creating a safety net in the behavior of health professionals. In this new framing, the role of these professional associations has arguably shifted from protecting therapeutic standards to supporting broader

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<sup>80</sup> Réponse à la question parlementaire 13985 de M. Rudy Salles, *Journal Officiel*, 21 Juillet 2003, p.5875.

<sup>81</sup> A transcript of all formal interviews ['auditions'] and video-recordings are publicly available : French Senate, *Mission d'Information sur le Développement de l'Herboristerie et des plantes médicinales, filières et métiers d'avenir*, Auditions du Mardi 18 Juillet 2018, available at

[http://www.senat.fr/commission/missions/herboristerie\\_et\\_plantes\\_medicinales.html](http://www.senat.fr/commission/missions/herboristerie_et_plantes_medicinales.html)

<sup>82</sup> French Senate, *Rapport fait au nom de la Commission d'enquête sur l'influence des mouvements à caractère sectaire dans le domaine de la santé*, tome 1, p. 7, (cit. n. 1).

public order, and they are thereby acting as pillars of Republican governance beyond the therapeutic.

Concurrently, illegality in health care practice has acquired a new significance, practically as well as symbolically ; illegal healers are now doubly suspect as both dangerous therapists and gateways to sectarian manipulation. Hence, those who work in unofficial realms—such as herbalists or nondoctor acupuncturists—are exposed to a dual pressure. They must avoid looking like they are infringing upon the medical profession, which may lead them, paradoxically, to adopt more spiritual or esoteric approaches. Or, they must use different labels for their professional practice. Yet doing so may attract suspicion from those monitoring sectarian behavior. Spaces of illegal practice carved out over previous decades, and institutionalized from the 1990s, are confronted by new challenges and a dual monitoring.

As such, the shifts of the 1980s and 1990s have reinforced professional divides, legitimized practices such as acupuncture or herbalism only when practiced by doctors or pharmacists, and pushed therapies deemed tainted by spiritual beliefs to the margins. Such shifts have occurred as matters of faith and public order, rather than as considerations solely of health care. This overall change in framing may have been generated by unresolved tensions within French society, including changes to both rural and urban communities; the shrinking space for religion in the public sphere; and the resurfacing of social transformation in the form of esoteric beliefs.<sup>83</sup> Echoing Kate Ramsey’s article in this special issue, authorities rally the “powers of imagination” to justify criminalization.<sup>84</sup> The 1980s to 1990s illustrate different yet correlated efforts to categorize and organize “other medicines”, between healing, witchcraft and cults. At the heart of these debates, , however, lie the anxieties toward counterculture

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<sup>83</sup> Maxim Silverman, *Deconstructing the Nation: Immigration, Racism, and Citizenship in Modern France* (New York: Routledge, 1992).

<sup>84</sup> Kate Ramsey, “Powers of Imagination and Legal Regimes Against ‘Obeah’ in the Late Eighteenth- and Early Nineteenth-Century British Caribbean,” in this volume.

movements that warranted surveillance by families of those deemed vulnerable to abuse by pseudoreligions (or pseudotherapies).

The shifts in regulation of alternative medicine in France since the 1980s illustrate broader themes explored in this volume, notably the difficulties of mapping the role of esoteric practices into a history of medicine and the law, especially when they are relegated to the “criminal” realm. However, policing the boundaries between legal and illegal is no longer a matter for the medical associations that led denouncements of rogue practitioners throughout the 1970s. Instead, the period from the 1980s to the early years of the next century shows how these roles were delegated to a new agency and the wider public, multiplying the actors involved in more subtle and “preventive” surveillance against “health care deviance.” This shift illustrates more broadly the neoliberal governmentality identifiable in other areas of French governance during this time. At the same time, it reflects the ambivalence of the contemporary French state to “alternative” public lives, and the regulatory monopoly of the state/medical alliance over the boundaries of legitimate medicine. The story of alternative healing illustrates another mechanism at play, namely the integration of alterity as a continuously contested matter in an effort to create a Republican French identity.