Original Article

The *Hijab* controversy and French republicanism: Critical analysis and normative propositions

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Abstract   This paper addresses the political debates surrounding the adoption of the 2004 French law on religious signs using key concepts from political theory. The analysis of the arguments used to justify this law shows that the issue of the Islamic headscarf has recently been tackled by political elites through a symbolic framework influenced mainly by a communitarian version of republicanism. The paper then critically discusses three contemporary alternative ways of dealing with the issue of cultural diversity through Taylor's, Kymlicka's and Laborde's theories, respectively, and finally advocates a radical liberal approach more compatible with a respect for pluralism and a strict definition of individual rights.
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Introduction

French Republicanism incorporates both liberal and communitarian dimensions, but issues of diversity have in recent years mainly been addressed through a communitarian symbolic framework. Over the last decade, the issue of cultural diversity has been regularly tackled in France through the controversial question of the Islamic headscarf, finally leading to the passage of a law, banning all ostensible religious signs in state schools. The objective of this paper is to analyse how French political elites have used the concept of *laïcité* (secularity) as a central notion of national identity in order to address the issue of cultural diversity.

I will first look at the general characteristics of this pivotal principle within the French republican tradition and show how it can be understood in the context of the intellectual controversy between liberalism and communitarianism as regards social integration in modern polities. The communitarian dimension of French

republicanism appears in an equally communitarian interpretation of *laïcité* and manifests itself in a patriotic rhetoric. In this national–communitarian approach, the patriotic discourse embraces both the idea of the republic and the principle of *laïcité*. Indeed, even if this notion expresses important liberal requirements – freedom of thought, freedom of religion, State neutrality – an in-depth analysis of the Stasi report in the second part of the paper will show that its political use in the controversy on the Islamic headscarf emphasised the communitarian principle to reinforce the unity and identity of the nation. The opponents of the law propagated a convincing deconstruction of the arguments for the ban, but neglected to bring forward coherent and practical alternatives. The final section of this paper will elaborate further on the basis of two normative trends in the debate on cultural diversity often presented as attractive alternatives to the official national-republicanism, namely, multiculturalism and inclusive (or civic) patriotism. After highlighting the risks these proposals contain for individual freedoms, I will defend a radical version of liberalism, attempting, on the one hand, to avoid the possible dangers for pluralism and individual rights induced by approaches centred on collective identity, and, on the other hand, to substitute real emancipation and individual freedom for a simply cultural treatment of the integration of people of immigrant origin.

Republicanism and *Laïcité*

Laïcité: A value anchored in the history of French republicanism

According to the French conception of republicanism, the emergence of positive and negative freedoms (democracy and human rights, respectively) that took place during the nineteenth century did not decrease the role of the state. On the contrary, the state was considered the defender of the common good (defined here as the core morality of liberal democracy). It thereby gained a sort of spiritual supremacy, justified by its fundamental role in establishing positive and negative freedoms (Gauchet, 1998, pp. 72–77). French republicanism values this historical evolution, and thus contains a paradox: the conception of the common good promoted by the state rests on the very same principles (such as freedom or equality) that are precisely supposed to allow a peaceful coexistence between the diverse – and often irreconcilable – visions of the 'good life' cherished by citizens. This paradox can only be solved by a clear separation between the public and the private spheres: the conception of the common good defended by the state is supposed to unfold in the public sphere through the republican ideal of the active and virtuous citizen, whereas the

multiple individual ethical conceptions can only be expressed in the private sphere. The principle of *laïcité* was born out of this republican imaginary (De Coorebyter, 2002, p. 37). Linked to the increasing autonomy of civil society, this concept presupposes freedom of religion, freedom of thought and state neutrality towards various spiritual schemas and worldviews (Audier, 2004, pp. 57–58). But at the same time it is influenced by the republican tradition of the strong state, the guarantor of a certain moral unity. It therefore also implies duties from the citizen and some subordination of the private sphere to the general interest, as well as identification with the national community.

These two characteristics of *laïcité* – the defence of plurality and the necessity of unity – may conflict and are related to two opposite interpretations of republicanism. The liberal version accepts the plurality of conceptions of the good (the 'fact of reasonable pluralism' in Rawls' famous phrase) and rests on a culture of contradiction, in which deliberation on collective purposes is considered in an instrumental way (Gauchet, 1998, pp. 79–80). Positive liberty continues to be highly valued, less because it would be an ideal of life in itself than because it preserves individual freedoms. Here we can speak of 'classical' or 'instrumental' republicanism. On the other hand, a version of republicanism qualified by some as 'civic humanism' (Rawls, 2005) tends – at least in its extreme form – towards completely absorbing citizens into the political sphere, contributing to a politics of assimilation. Active participation in political life is deemed to express both the essential nature of and the ultimate goal for (in this double sense, the perfection of) human beings, and collective autonomy then becomes a 'comprehensive doctrine', a particular and yet public vision of the good meant to be the only acceptable one, and one that is imposed on all citizens. Such a version of republicanism is incompatible with liberalism: as the state becomes the promoter of the common good, the line between law and morality is erased. This vision appears, for example, in the notion of 'civil religion', advocated by Jean-Jacques Rousseau in the *Contrat social* (Baubérot, 2004, pp. 166–167). This perfectionist republicanism has usually been associated with a strong emphasis on national identity through a patriotic rhetoric.

These two kinds of republicanism generate opposite conceptions of *laïcité* – inclusive and liberal on the one hand, and exclusive and unitary on the other – which in turn lead to different visions of the state education system that is supposed to transmit them. In the official historical narrative, the opposition between these two interpretations ended with the victory of the more liberal one. At the turn of the last century, state schools officially adopted Jules Ferry's vision of an inclusive and flexible *laïcité*: the collective order must accommodate differences and should not impose a unique faith (Baubérot, 2004, pp. 171–172). However, the more unitary and exclusive approach has

never completely disappeared,[1] and it seems that a new form of closed *laïcité* has developed in recent years.

Republicanism, *laïcité* and the liberal-communitarian debate

The two versions of French republicanism and of *laïcité* can be linked to the debate in political theory opposing liberalism and communitarianism. It must be recalled that this debate is essentially about cultural and identity-related questions, and excludes other aspects of political and social life. In this debate, the interpretation of liberalism focuses on its philosophical dimension, whose aim is mainly to deal with cultural diversity in a broad sense, and which does not take into account its other aspects (political and economic). Philosophical liberalism argues that the pluralism of democratic societies prevents them from being ruled by a particular conception of the good, and is therefore the opposite of a perfectionist theory. A liberal model of political integration cannot, in this perspective, be grounded in an 'ethos' stemming from a particular tradition, imbuing the entire society (Lacroix, 2003, pp. 10, 32). In the liberal paradigm, citizens are bound together by a common conception of justice, based on the principles of equal respect for all forms of life and of equal consideration for everyone's needs and interests. According to this perspective, the integration of various cultural communities requires only the constitutional recognition of democratic principles and human rights (Ottersbach and Yildiz, 1997, p. 296).

On the other hand, for communitarians, any polity (especially democracies) has to be based on a common conception of the good, on a set of substantially shared values that embody a (generally national) community of history, language and culture. In the words of M. Walzer, the 'moral community' – a social, geographic and cultural unit in which individuals live, united by 'shared meanings' – and the 'legal community' – a framework in which policy measures are applicable to a group – have to be congruent (Lacroix, 2003, pp. 161–162). Contrary to what is often postulated in the French-speaking world, communitarianism is not a form of multiculturalism but rather a form of nationalism or patriotism, in the sense given by Ernest Gellner: a principle that affirms that *national unity and political unity have to be congruent* (Lacroix, 2004, pp. 15, 154–169).

In order to identify a republican conception as liberal or communitarian, one must examine how it treats the bonds uniting citizens. This question, of course, is paramount for the management of cultural diversity. Whereas the liberal approach favours openness and diversity, only requiring the integration of political and juridical norms and procedures, the communitarian perspective tends towards homogeneity and closure, as it demands a more substantive and ethical integration.

If republicanism approaches either of these two polar opposites, it has generally been considered closer to the communitarian pole. For this reason, one can argue that republicanism is a form of communitarianism: because it requires not only procedural commitments on the formal way of treating individuals with an equal respect, but also 'substantive commitments' on the finalities of life and a strong identification with the community; the more or less open nature of republicanism is merely a question of nuance (Renaut and Mesure, 1999, pp. 147–148). There is actually a deep tension within the republican tradition between universalism and particularism, whereas the founding principles of republican identity are universalistic (democracy, liberty, equality), this tradition also contains particularistic elements because of the importance it grants to the identification of citizens to the *patria*, the polity supposed to protect these principles (Holm, 2002, pp. 3–4). Identification to a collective 'self' is thus a key component for understanding the communitarian dimension.

The reactions to the challenge of growing cultural plurality in French society and more specifically to the issue of the Islamic headscarf confirm this communitarian tendency of French republicanism.

The Republican Reaction to the Challenges of Cultural Diversity

The main positions on the issue of cultural diversity and the *Hijab*[2]

In the 1990s, two main poles can be identified on the issue of cultural diversity in the French debate (Jennings, 2000), which were then reactivated in the *Hijab* controversy. On one end of the spectrum, a traditional republicanism was reaffirmed, according to which multiculturalism was perceived as basically 'unfrench'.[3] It was associated with the American model, which was supposed to breed tendencies of ghetto-building and ethnic divisions, to reduce politics to a simple confrontation of particular interests, and to deprive it of its central function of developing the common good. Multiculturalism was thus seen as a threat to individual rights, which imposed a predominance of the group over the individual and introduced a 'differentiated citizenship'. In this perspective, the political integrity of the nation was threatened by centrifugal tendencies, and the main function of the school must be to reinforce the cultural preconditions of democracy. This version of Republicanism was clearly communitarian: it considered that any democratic polity could survive only if it was grounded in a community of values, in a common cultural identity. School had a central role to play in the reproduction of republican identity. In 1989, during the first politicisation of the Islamic headscarf, this current of thought was represented by the signatories of the open letter 'Teachers, let's not

capitulate!',[4] who denounced Minister Jospin's critical behaviour against the interdiction of the *Hijab* in some schools as a 'Munich on Republican education' (Maier, 2004, p. 26). Several figures of the French intelligentsia also later signed an article of the same kind ('Republicans, let's not be afraid anymore!'[5]). Attacking what they perceived as pervasive antisocial behaviour, they demanded more discipline and responsibility from young people and that immigrants adhere wholly to republican values and particularly to the value of *laïcité*.

On the other end of the spectrum, what Jennings called 'Multiculturalist republicans' provided a very different response to diversity in the 1990s (Jennings, 2000, pp. 592–593). This vision could be found in the publications of the journal *Esprit* and in the papers of authors such as A. Touraine, J. Roman, F. Khosrokhavar and F. Gaspard. This approach proposed a new 'plural universalism', and to this end advocated no longer representing national specificities as universal, but instead giving public recognition to cultural differences and enhancing intercultural dialogue.

The republican trend gained strength in the 1990s, in the intellectual sphere as well as in the political world. At the political level, republican parties (Chevènement on the left and the RPR party on the right) have always been firmly opposed to multiculturalism, whereas the more liberal right (UDF) and the Socialist party (PS) progressively adopted a more pragmatic approach and accepted some public recognition of plurality as a means of integration (Holm, 2002, pp. 5–8). In the 1980s, the socialists even promoted a controversial 'right to difference' for people of foreign origin, distinguishing themselves clearly from the assimilation-oriented Jacobin tradition. But later on, in order to distinguish themselves from the differentialist approach of the extreme right, the socialists returned to a more republican vision of integration. As a result, the main political parties in France now seem to agree on a 'neo-republican' defence of the traditional model of assimilation (Maier, 2004, pp. 6–9).

The political treatment of the Islamic veil confirms the hypothesis of a return to communitarian republicanism as an answer to cultural plurality. This question first became politicised with the 'Creil case': in September 1989, three young pupils of North African origin were expelled from their school in the city of Creil by a principal who refused to let them wear their *Hijab*. The socialist Minister of Education of the time, Lionel Jospin, disapproved of the measure, as did several associations (Rochefort, 2002, pp. 146–147). Because of the media coverage of the debate, the government appealed to the *Conseil d'Etat*,[6] which decided that wearing a *Hijab,* like any other religious sign, was compatible with the principle of *laïcité*, as long as it respected certain conditions (Hommes et Migrations, 1999, pp. 70–71): it must not be an act of pressure, provocation, proseletising or propaganda, or violate the dignity or freedom of the school community members; neither should it endanger health or safety, or prevent the normal process of both classes and the school public

service. But it left the implementation of those principles to local authorities. In following years, students were expelled from school because they wore a Muslim veil that was considered to be 'ostentatious'. The situation became even more tense, when, in September 1994, the new right-wing Minister of Education, F. Bayrou, issued a decree giving heads of school the power to ban overt religious signs (Holm, 2002, pp. 15–16).

In July 2003, President Chirac created a commission, chaired by B. Stasi, to report on the application of the principle of *laïcité* in the republic. Echoing previous reports (Barouin, 2003; Debré, 2003), the commission recommended, alongside measures against discrimination, a 'law on *laïcité*' that should affirm the strict neutrality of public service agents and the banning of *clothes and signs manifesting a religious or political belonging* in schools,[7] making its targets clear: *overt signs such as large crosses, veils or kippas*. Chirac also declared himself in favour of such a law, and despite strong protestations the bill was finally adopted in February and March 2004[8] (Helvig, 2004, pp. 12–13).

As Cecile Laborde has shown, the official republicans who led this debate deployed an argumentation based on three central lines, all narrowly associated with the principle of *laïcité*: first, the *Hijab* in school infringed the neutrality of the public sphere, and therefore the equality of all citizens; second, it was a symbol of sexist domination denying the freedom of the girls wearing it; and finally, accepting it would increase the public recognition of cultural difference and therefore undermine the common identity of the nation (Laborde, 2008, p. 8). However, Laborde misses the fact that the more liberal elements within this argumentation (freedom of religion, neutrality of the State and individual autonomy) are subordinated to the communitarian ones. The overarching national-communitarian perspective appears in the narrow link established between *laïcité* and the preservation of national unity and identity. The public sphere has to be secular, Muslim girls have to be emancipated from male oppression, and civic inclusion must be enhanced *in order to* guarantee national unity. On the basis of the Stasi report, which largely inspired the drafting of the law of March 2004, I will now examine in more details the arguments invoked to prohibit the *Hijab*.

Reaffirmation of the principle of *laïcité* by the Stasi commission

The Stasi commission reported on 11 December 2003.[9] This group was initially quite pluralistic: some of its members supported a communitarian vision of *laïcité*, while others were either in favour of a more liberal vision or did not have any preconceived opinion. However, their views converged as their work advanced (Schwartz, 2005), and in the end they all voted for the whole report – except for one member – including the draft law on religious symbols

(Baubérot, 2003a).[10] The resulting report actually reflects the by then prevailing political vision of the *Hijab*: the work of the commission took place amid an intense political debate raised by the issue of the Islamic scarf, and was therefore influenced by the general vision promulgated by the mainstream media and other political forces, which converged upon the necessity of a law banning the *Hijab* in schools (Gorce, 2004). The following analysis aims at highlighting the main theoretical presuppositions as they appear in the Stasi report behind the banning of overtly religious symbols in schools. The main argument here is that the definition of *laïcité* given by the commission clearly indicates a communitarian conception.

The report begins by defining *laïcité* as the synthesis between two potentially contradictory requirements explained above: the liberal claims for pluralism, freedom of thought and equality of rights; and the more communitarian demands of unity and social cohesion. With regard to the liberal claims, the commission stresses that *laïcité is based on the values of freedom of thought, equality of rights between individuals and between religious options and on the neutrality of the public authority*[11] (p. 9). It also rests on *freedom of expression (…), refusal of discriminations, gender equality and the dignity of women* (p. 3). Here we find the three main principles of philosophical liberalism: respect for individual freedoms, limitation of public authority and State neutrality towards religious and moral convictions (Renaut and Mesure, 1999, pp. 152–154).

However, this liberal dimension is complemented by a communitarian one. First of all, the report deems it important to affirm that *laïcité* is a French cultural value, born from its particular history: *France is a secular republic. This rule affirmed by our constitution is the result of a long historical tradition* (p. 2). *Laïcité* is a *French specificity* (p. 5) and *a historically fashioned ideal*. It *reveals a conception of the common good* (p. 9). This approach is communitarian because it considers that the polity rests on a certain conception of the good, normatively valued and historically entrenched, and that the state must defend it. The text insists on the fact that *laïcité is not only an institutional rule*, but also *a founding value of the republican pact* (p. 69).

Moreover, the central role given to the principle of *laïcité* by the Stasi report is to reaffirm the unity of the nation and to avoid the disintegration of the social corps: *we have noticed the attachment of a vast majority of our fellow-citizens to the principle of* laïcité. *Instinctively, they see in it a value upon which the national unity is based, which brings citizens together and protects individual freedom. It seems of the utmost importance to them that this value be respected and protected every time it is threatened* (p. 6). And further on in the report: *when the value of* laïcité *is in crisis, France has difficulty offering a common destiny* (p. 18), because laïcité *is all about national identity and cohesion of the social body* (p. 36). Consequently, the lack of integration experienced by

immigrants and by their children *undermines the trust in the republic and the identification to the nation* (p. 46).

According to the commission, in the face of growing cultural diversity, it is indispensable to reaffirm common values, *to affirm a firm and unifying* laïcité (p. 50), in order to struggle against the so-called 'communitarist' evolutions.[12] These last terms appear in nearly every page of the report. In French political language, 'communitarianism' evokes ethnic divisions and separation of cultural communities from the rest of society, as well as endless fragmentation of the social body. This expression must, therefore, not be mistaken for the philosophical meaning of communitarianism. As a philosophical current, communitarianism considers that a polity must be based on a substantial collective identity, generally unfolding at the national level (Pélabay, 2007, p. 4). The 'communitarist drift' branded as a threat to the integrity of the republic by the Stasi commission rather refers to an evolution towards differentialist multiculturalism, in which society's cultural heterogeneity would become extreme. This fear is thus the exact opposite of republican communitarianism. The fear of 'communitarianism' expressed by the advocates of the law on *laïcité* actually reflects a conception of society very much marked by 'national-communitarian' republicanism. In the vocabulary adopted here, the Stasi report makes a national-communitarian criticism of multiculturalism. Even though this way of framing the debate better tallies with the Anglo-Saxon philosophical tradition rather than with the French one, grasping the political dealing of cultural diversity through the opposition between liberalism and communitarianism is heuristically very useful.

This fear of fragmentation into segmented cultural groups is justified in the Stasi report not only by the will to maintain a quite homogenous national identity, but also by the need to defend national security. Many terms bring to mind this security dimension. The report highlights that *laïcité* and *other founding values of the social pact* are *in danger* (p. 37), and that *the recent rapid diffusion of communitarian convictions is worrying* (p. 40). This challenge to the basic social pact is seen as the result of *extremist* and *organized* groups, who *are acting in our country to test the resistance of the republic and to drive some young people to reject its values* (pp. 7, 43). Arousing fear of an enemy who is supposedly living within society, acting clandestinely and in an organised way, and whose sole purpose is supposed to be the destruction of national foundations, can prove itself useful for a political power wishing to reassess its authority and legitimacy. Such a device can indeed help the State to secure the support of citizens, and therefore enable it to present itself as their protector against such a dangerous and skilled enemy.

Consequently, if the commission deems that *laïcité* must allow *a conciliation between unity and respect for diversity* (p. 36) and thus seems to promote a balance between the liberal and communitarian dimensions of republicanism, it

mainly emphasises a requirement for unity and rather favours a communitarian pole. For the commission, pluralism can only be respected as long as *laïcité*, as a founding value of the national community, is defended. Here is the profound ambivalence of republicanism: the plurality of particular ethical conceptions is to be guaranteed by the affirmation of a superior and specific conception of the good. Even if the concept of *laïcité* is supposed to accommodate diversity and to respect freedom of conscience as pivotal values, considering it as a superior ethical conception carries the danger of its application to be determined mostly by the will to defend social unity and a purportedly superior national identity. As we have just shown, the arguments of the Stasi report in favour of a reassertion of *laïcité* are precisely the defence of public order, national identity and national security against the supposed threats of religious fundamentalism and cultural fragmentation.

The main solution proposed by the commission in the face of the supposed questioning of *laïcité* is also motivated by an approach to integration inspired by communitarian republicanism. Indeed, the main arguments used to ban the Islamic veil are the following: first of all, it would lead to dangerous *divisions and conflicts within the school* (p. 57), to such an extent that *today, the central question at school is not freedom of conscience but public order* (p. 58). It is even more serious since *the first place where republican values are learnt is and must remain the school* (p. 51) and since it *prepares tomorrow's citizens to live together in the republic* (p. 56). And in the course of this training, the value of *laïcité* is central because it is a founding element of the republican base. The second argument against the veil is therefore the threat it represents to French national identity: it would disrupt the transmission of common republican values, among which the value of *laïcité* is preponderant.

If these first two arguments – the struggle against fragmentation and the defence of substantive common values – are very close to the communitarian pole, the one regarding gender equality is rather liberal because it refers to equality of rights between individuals. Nonetheless, it is used as much to defend the identity of the republic as the freedoms of Muslim girls. When the report states that *pressures are exerted on young girls in order to force them to wear a religious sign (…). The republic cannot be indifferent to the cry of distress of those girls. School must remain for them a place of freedom and emancipation* (p. 58), the purpose is as much to reaffirm the value of the republic and its principles as to suppress the oppression supposedly experienced by those girls. Certainly, the Stasi report also recommends other measures to achieve gender equality like strict application of the obligation to go to school in order to prevent that some girls do not go to certain classes under the pretext that Islam does not allow them to. But the 2004 law integrated only the ban on religious signs, which can be seen as a very inefficient measure to reach emancipation for young Muslim girls.

Some of the commission's members truly believed that gender equality had to be a priority in the law on *laïcité*. And yet, some of them thought that the banning of the *Hijab* was not a solution to reach emancipation.[13] Others believed on the contrary that such a measure could protect Muslim girls against growing pressures on them to wear the veil (Weil, 2005, pp. 66–67), a view that ultimately prevailed in the final report and in the political and legislative process that followed, among others, because of the testimonies heard by the commission. The audition of an Iranian woman, author of a book denouncing the Islamic veil as a tool to prevent Muslim women from being in control of their own body, was given a great deal of publicity at the time (Djavann, 2003) and certainly had an important impact on the content of the report. The law and the debate surrounding it mainly stressed the necessity to struggle against national disintegration and kept only a part of the Stasi commission's propositions, essentially the interdiction of the Islamic veil in state schools. We can, therefore, suggest that the equality of gender argument was put forward by the most patriotic currents in order to give a liberal caution to a mainly communitarian gesture, aimed at defending French identity against a perceived growing cultural affirmation by Muslim citizens.

The dangers of 'national-communitarian' republicanism

The communitarian dimension of French republicanism thus clearly dominated the official vision of the *Hijab* controversy. As explained before, if French republicanism has an important liberal base, it also contains many communitarian aspects, as it rests on a conception of the good that is considered to be superior and, as such, should be publicly promoted. In its political expression, French republicanism wavers between these two poles and can always slide towards communitarianism (Patten, 1996, p. 26). One reason for this stems from the strong affective identification it supposes with republican values, which explains how republicanism can easily mutate into patriotism or nationalism.[14] Steadfast republicans would object that a patriotism founded on liberal values is harmless, because identification with the latter could only lead to the promotion of individual freedoms (Patten, 1996, p. 41). However, the danger of patriotism seems to come less from its content (the values on which it officially rests) than from its intrinsic nature (Markell, 2000, pp. 52–53). Any national feeling supposes a subjective identification, a more affective than rational attachment to certain values. This primacy given to identification can be harmful to individual rights in different ways. First, it can be used by leaders to obscure the real power relations within society by presenting people with contradictory interests as

members of the same cultural community. It therefore reduces the protestation power of the oppressed, whose patriotism blurs their real class interests, incites them to support the dominant social groups and justifies a division between 'nationals' and 'foreigners'. As underlined by Marxist analysis, patriotism can thus transform the main line of conflict from one based on social interests to one grounded in identity motives (Marx and Engels, 1965, pp. 236–237). Furthermore, the identification to a certain community often contributes to its valourisation, which means that its members consider the values of their community as intrinsically good and as better than those of other groups (Turner, 1978; Sanchez-Manza *et al*, 2005). Such a process might cause certain forms of exclusion (justified by the non-adhesion to the same values) or the instrumentalisation of individuals (made easier by the emotional nature of patriotism), thereby negating liberal principles such as the neutrality of the State, the limitation of its power and respect for individual freedoms. When patriotism is based on political and universal values, such drifts are also conceivable even though they would be contradictory with the constitutive values of this patriotism. Patriotism is thus incompatible with liberal morality (MacIntyre, 1997, p. 294): the latter supposes that political bounds should ideally be built regardless of any particular cultural characteristics, whereas patriotism implies that attachment to the nation and to its perceived features – whether these are 'organic' like ethnicity or race or socially constructed like cultural or political values – is a precondition to any stable democratic polity.

Once again, the potentially illiberal nature of patriotism does not result only from its content but mostly from its form, from the superior identification with a particular collective self it engenders. The way French elites dealt with the Islamic veil highlighted the communitarian bias of French republicanism, as well as the correlative risk to neglect individual freedoms. The values and principles defended as ethically superior are not in themselves anti-liberal; on the contrary – the principle of *laïcité* is, for example, a theoretically very liberal one. Yet, the way they were politically mobilised in the *Hijab* controversy reveals a 'national-communitarian' logic. The interpretation of the principle of *laïcité* by French leaders clearly put the objectives of unity, security and identity before those of diversity and individual freedoms of thought, conscience and expression. As these connections between the principle of *laïcité* and patriotism through the republican rhetoric are not conceptual and necessary but political and empirical, I will call for a more liberal and post-national interpretation of *laïcité*, complemented by other dimensions that can be derived from a socially critical and radical version of liberalism. But before sketching this view, I will discuss some of the common alternatives to the official French national-communitarian treatment of cultural issues.

Alternative Theoretical Propositions to Deal With Cultural Diversity

The intellectuals who opposed the banning of the *Hijab* mainly used a defensive strategy, contesting the relevance of the official republicans' arguments: with regard to secularism, they pointed out that the actual public recognition of certain religions justified an even-handed treatment of Islam. Against the argument that banning the *Hijab* would help emancipate Muslim girls, they argued that this was a paternalistic endeavour to impose the majority's vision of the good on minority members, and that wearing the *Hijab* could be compatible with individual freedom. It can indeed hardly be sustained that banning the veil is the most efficient manner of emancipating Muslim girls. On the one hand, for the girls who choose to wear the *Hijab,* such as the proponents of a 'Muslim feminism', for instance (Hamidi, 2007), a ban would undermine their right to freedom of thought and expression; on the other hand, for those who are forced to wear it, the ban might abolish this particular form of oppression in the school environment, but it does not automatically suppress other forms of domination they might endure (banning of specific activities or domination in the domestic sphere, for example). And finally, against the argument of national solidarity, 'tolerant republicans' denounced the ethnocentric, imperialistic and racist foundations of the French national identity (Laborde, 2008, p. 8).

Most of them wanted to preserve the central insights of republican *laïcité* – religious pluralism, religious freedom, ethical and confessional neutrality of the State – but argued that these could not justify the interdiction of religious signs at school, which rather had to be seen as part of freedom of religion. According to these commentators, a better solution would be a public recognition of minority religions such as Islam and their submission to the current regime of *laïcité*, thus putting an end to the unequal treatment of different faiths and to the dominating influence of the majority culture on the State. The recommended measures include public help for the building of mosques, recognition of some Muslim holidays, pork-free meals in public institutions, Muslim areas in cemeteries … . Besides, French intellectuals advocating a '*laïcité* ouverte' also asked for an active involvement of Muslim organisations in democratic deliberations (Laborde, 2008, pp. 75–79). Thus, although pretty elusive in their normative prescriptions, the proponents of a '*laïcité* ouverte' presented similarities either with multiculturalism or with civic patriotism. I will now critically address three theories that defend one of these two propositions – Taylor's republican multicultural model, Kymlicka's group-rights theory and Laborde's critical republicanism – highlighting both their strong points and their limits from a liberal and socially critical point of view.

Multiculturalism and civic patriotism

Charles Taylor tries to reconcile the recognition of differences with a conception of the common good, proposing both an answer to claims for public recognition of cultural differences and a rejoinder to the frequent critique that multiculturalist policies would undermine the common identity of the polity. Nonetheless, his conception contains contradictions with liberal principles such as pluralism and individual freedoms.

On the one hand, he considers that the neutrality of the State defended by liberals is an illusion, glossing over the fact that the majority's culture is imposed to the detriment of others. He therefore recommends a public recognition of cultural differences, among others, through group rights, in order to guarantee the survival of the particular cultures and the preservation of their distinctiveness (Taylor, 1994; Pélabay, 2007, p. 3). But he also deems it essential for all individuals to be united by a collective identity that has to be expressed and promoted by public institutions, and he advocates a republican patriotism to reach this objective. The conception of the good binding the citizens together must not exclude a variety of ethical worldviews and doctrines, but be based on the value of 'deep diversity'. Indeed, for Taylor, it is only within a smaller community in which identities can attain public recognition that the individual's identification with the larger society can be consolidated. A 'politics of recognition' would thus not threaten the integrity of the polity, but would rather be its main cement (Audier, 2004, pp. 97–103).

Taylor's attempt to reconcile patriotism with multicultural policies is problematic from a liberal point of view. First of all, his interpretation of group rights supposes a primacy of the purpose of cultural survival over individual free choice in matters of belonging (Pélabay, 2007, p. 10). Recognising collective rights of various cultural groups might reify, essentialise and freeze their identities, and prevent the members of the group from criticising, building and rebuilding them (Gallenkamp, 1997, p. 508). Collective rights can then contradict individual freedoms by reinforcing the authority of traditional leaders and by legitimising social norms leading to the domination of internal vulnerable minorities. Susan Okin showed, for instance, that many traditional cultures tend to repress the freedoms of women, especially in the domestic sphere (through customs such as excision, forced weddings, polygamy …) (Okin, 1997). In addition, contrary to most liberal critiques of radical multiculturalism, it is important to underline that the individual freedoms potentially endangered by group-rights are not only civil in nature (like freedom of thought, speech, communication), but also political and social, as both the naturalisation of cultural identities and the power granted to traditional and often unrepresentative leaders can legitimise a certain distribution of power and wealth within the group, thereby contradicting the

equality of civil, political and social rights among all citizens. Finally, the insistence of multiculturalist theories on cultural discrimination tends to hide the socio-economic inequalities and lack of political inclusion that sometimes affect minorities more than cultural intolerance and that can hinder the citizens' access to full-fledged freedom. Multiculturalism, when it leads to such consequences, is therefore incompatible with the normative priority given by liberalism to individual freedom.

Will Kymlicka's version of multiculturalism integrates some of these liberal concerns, but group-differentiated citizenship remains problematic in its extreme form. His starting point is also that liberal States are not neutral, but actually support the culture of the national majority and disadvantage the others, through, for example, public decisions with regard to official languages, school programmes or public holiday (Kymlicka, 1995, p. 108). The 'polyethnic rights' that he promotes for groups from immigrant origin are actually individual rights to express a cultural difference rather than group-rights *per se* (bilingual education, public financing of ethno-cultural associations and events, exemption from certain laws, arrangements to facilitate some religious practice …), and are therefore not intrinsically contradictory to individual freedoms. Quite the opposite: the 'self-government rights' that he defends for 'distinct societal cultures' such as indigenous people and 'national minorities', aimed at ensuring a permanence of the minority culture by wide-ranging political autonomy, entail the same dangers for individual freedoms as the group-rights supported by Taylor (Kymlicka, 1995, pp. 26–33). Unlike some proponents of group rights who argue that even cultures that disrespect the rights of their individual members should be accorded group rights if their minority status endangers their cultural existence (Margalit and Halbertal, 1994, p. 491), Kymlicka rightly affirms that identity claims are acceptable only insofar as they respect basic liberal principles. Yet, one might object that it will be extremely difficult for the State to assess the impact of some group-differentiated or special rights, and, once they are recognised, to modify them because they contradict the freedom of members within the community. This difficulty is even greater when the restriction of individual freedoms takes place in the domestic sphere, as it is often the case with regard to women (Okin, 1997). Overcoming this problem would require a very important public intervention in the internal organisation of the communities, which would hardly be compatible with the purpose of a strong politics of recognition.

Thus, it is possible to identify in both conceptions – clearly in Taylor's theory and more subtly in Kymlicka's – a threat for individual freedoms stemming not so much from multiculturalism as such, but from a multiculturalism in which collective rights prevail over individual rights.

Taylor's support for patriotism constitutes another risk for individual rights (Taylor, 1996). Against the frequent critique that multiculturalist policies

would undermine the common identity of the polity, he tries to reconcile the recognition of differences with a conception of the common good. The patriotic feelings that he recommends raise similar liberal objections to the ones I have already expressed against the official national-republican rhetoric in the *Hijab* debate. Certainly, the kind of patriotism Taylor pleads for rests on universal and liberal principles. But as we could see in this controversy, even a republican patriotism based on progressive principles often deploys particularistic dimension in political practice. Taylor's vision thus contains a potential tension or contradiction between a republican patriotism that considers a 'civic' attitude as good in itself on the one hand, and respect for the plurality of ethical conceptions on the other hand. The main problem here is the superior affective identification included in the very idea of patriotism, which risks limiting the expression of other cultural conceptions and obscuring other forms of social conflicts.

Is it possible to develop a civic republicanism that would be open to cultural differences while avoiding the risks entailed by group rights for individual freedoms, as well as by the 'national-communitarian' dimension present in most forms of patriotism? Cecile Laborde's recent redefinition of republicanism forcefully attempts to meet these objectives by tackling the claims for more cultural recognition by minority groups with a renovated idea of freedom as non-domination. Laborde's purpose is to tackle the legitimate critiques made by multiculturalists, but without endorsing the demand for group rights and to address the traditional republican concern for a shared national identity while avoiding any exclusionary effects. She rightly underlines the dangers entailed by group rights for members of cultural or religious minorities, and especially the risk of increasing the intra-group power relationship such as the domination of women (Laborde, 2008, 152–154). She therefore advocates other means to reach non-domination of all citizens, and particularly of the internal minorities like women of immigrant origin: equality of opportunities, education, political inclusion … . Furthermore, Laborde rightly puts forward that many problems perceived as cultural in nature actually result from a lack of social justice and political voice, and thus mostly require socio-economic and political measures (Laborde, 2008, 236–237).

Nevertheless, her 'critical republicanism' does not escape from the national-communitarian logic, as it keeps the traditional republican emphasis on patriotism as a necessary ground for the exercise of democratic sovereignty and social justice (Laborde, 2008, pp. 245–247). In this perspective, a civic patriotism can provide the feelings of solidarity deemed as necessary to sustain political and social inclusion. Certainly, Laborde's patriotism is conceived as free of any exclusive and strictly ethnic dimensions, and must rather be a political and inclusive shared identity, open to a permanent critique against its own principles and history (*Ibid.*, pp. 248–252). It should therefore include new

ways of being French, the acceptance of religious signs in schools being one way to pluralise French identities (*Ibid.*, 251). Nevertheless, some communitarianism remains in the mere contention that the legal community must rely on a collective identity substantially oriented by shared meanings and values (Pélabay, 2006a, pp. 271–272). Even if this civic patriotism is clearly distinct from the official republicans' one, particularly in its treatment of cultural diversity, it insists on collective identity in a similar way, and is thus exposed to the same risks as any sort of patriotism, regardless of the values at hand: not only is it based on a fictive homogeneity of the national community that can be used to hide the social inequalities within the nation, but it also facilitates the construction of 'others' (not necessarily the citizens of immigrants origin), who can then be easily presented as enemies or strangers to be combated or excluded. Laborde would certainly not support such behaviours, but the dose of communitarianism still imbuing her theory could have those potential effects. History is indeed full of examples of 'good patriotisms', based on universalistic values such as public reason, civilisation, human rights or democracy, which provided a fertile ground for exploitation, domination or exclusion.

Two other typically republican problems lie in Laborde's theory. First, it deploys a very demanding vision of public education, supposed to transmit certain values and civic attitudes. Even if the purpose is laudable – providing children with autonomy-related skills such as practical reason, moral courage and critical skills – the possibility of giving a substantial content to public education can always be used by the public authority to impose a certain conception of the good, detrimental to the individual choice of a good life and to the maintenance of a certain ethno-cultural diversity (Pélabay, 2006b, pp. 45–46). This is not to say that education cannot help lessen the domination of women, but it is mainly the transmission of knowledge, skills and the main universal principles forming the basic consensus of society (such as the equal dignity of all) that will help fulfil this objective. The emancipation of women in different parts of the world, even within the domestic sphere, seems to result mostly from an increase in the general level of education and not from the acquisition of certain autonomy-related skills. The language of equal liberty is a simple one that can be easily understood by young children – provided that every school teaches it and that children attend all the classes. But then of course, and here I agree with Laborde, real emancipation of women also requires socio-economic measures, just as effective emancipation of all citizens requires a certain amount of social equality. Second, this theory remains very republican in the exaggerated importance it confers to democratic participation to achieve the integration of citizens of immigrant origin. On the contrary, one can argue that not all claims for cultural recognition are diverted demands for political voice, and that the integration of people from immigrant origins in

democratic forums is not always an ideal solution. Political participation should not be an end in itself, but only a means to protect and extend individual freedoms.

In the end, the critiques addressed both to group rights multiculturalism and patriotic republicanism reveal the potential illiberalism underlying any strong promotion of a collective identity: not only can it reduce pluralism, but, mostly, it can lead to harmful infringements of individual rights. Both come close to a communitarian logic – be it articulated at the national or at the group level – considering that a conception of the good must be promoted in the public domain and thus imposed on the individuals. Conversely, the radical liberal vision of individual emancipation charted in the last part of this paper, while calling for a better recognition of cultural diversity and an acceptance of the *Hijab*, does not support demands for group rights in general (contrary to multiculturalists), adds democratic and social dimensions to facilitate the integration of people from immigrant origin (as opposed to most multi-culturalists and republicans) and supports a post-national vision of citizenship (against the republican defence of patriotism).

Radical liberalism and individual emancipation

The question of how to integrate people of immigrant origin in the French society should be part of the more general objective of individual emancipation for all citizens, regardless of their cultural or religious origins. This purpose can be achieved by applying a radical version of liberalism, grounded in individual rights but nonetheless deeply aware of the actual structural power relations impeding an effective equal liberty.

First of all, such a radical liberalism accepts and values cultural diversity while at the same time it respects individual freedoms, coming close to Laborde's conception in that respect. Recognising group rights of cultural minorities (such as self-government or separate educational systems) does not fit this approach, because it can have a negative impact on individual freedoms, especially by reinforcing the power of male leaders on internal minorities such as women. Renaut and Mesure rightly argue that it is best to start reasoning from the traditional individual right's point of view, rather than to complete them with new collective rights through a differentiation of citizenship. An individual right to cultural identity can actually stem from several basic rights, such as freedom of conscience, of expression, of association and of communication. Such a right should thus be conceived as a deepening of already recognised rights. Consecrating cultural rights based on classical civil rights would enable us to remain within the philosophical liberalism line of thought. In order to follow the liberal approach, the State must also be able to

restrict cultural rights if they breach other human rights or if they prevent some people from exercising their own cultural rights (Renaut and Mesure, 1999, p. 280). In this way, the liberal freedom to choose the community one wishes to belong to is maintained, as well as the possibility to leave it. But the solipsistic conception of the subject who eludes the relationship to other subjects is avoided. In this renewed version of liberalism, the subject is the individual human being, and therefore he or she – and not the community – must be the holder of human rights. But the individuals can only develop their individuality through their relationship to others, through inter-subjectivity, and must therefore be granted a right to cultural identity (Renaut and Mesure, 1999, pp. 274–276; Habermas, 2003). A double demand is thus fulfiled, because the human being becomes human only among other humans, he does not exist without roots (*attachments*); but this is compatible with human dignity only to the extent that there is also a possibility of uprooting (*arrachements*) (Renaut and Mesure, 1999, p. 282).

In this perspective, wearing the *Hijab* can be recognised as an individual right to express one's identity, extending traditional civil liberties such as freedom of conscience, expression, association and communication. Nonetheless, to remain within the liberal framework, this right can be granted only to individuals, and can be limited if it harms others' fundamental rights. Moreover, this right can be exercised only if the claim for it comes from the individual's true will to express their religion and not from the group they belong to. It must be an individual and not a collective right. In the case studied here, it is not easy to determine whether the girls who wear the *Hijab* do it by choice or under constraint, and obviously there is a plurality of situations. In any case, according to a liberal multiculturalist theory, a general ban is not the solution. It would not necessarily lead to the emancipation of the young girls who are forced to wear it, because effective emancipation requires much more demanding measures (improvement of socio-economic conditions, successful schooling, real possibility to find a job …), and it would be likely to hinder the right to cultural identity of those who wear it by choice. In an approach based on liberal multiculturalism, the best way to tackle this issue is rather to recognise an individual right to cultural freedom, to efficiently fight cultural and religious discriminations (affirmative action, struggle against indirect discriminations) and give some public valuing to cultural diversity (multicultural education, inclusion of the contribution of immigrants to the national history within the curriculum).

Many authors – including Cecile Laborde – wish to compensate such a liberal-mutilcultural approach by common bounds uniting citizens in a shared identity. As we have seen, most republicans, adhering in that sense to the basic communitarian logic, argue that democracy and social justice are impossible without a shared *ethos,* and that a civic patriotism is the best way to deliver this

necessary feeling of solidarity (Thibaud, 1992; Taylor, 1996; Schnapper, 2000; Laborde, 2008). The radical liberalism proposed here does not share this view. I have already pointed out the potential dangers for individual freedoms entailed by an insistence on any sort of collective identity. Being undesirable, a common national identity is also unnecessary. Associated to a post-national and cosmopolitan vision of citizenship, the radical liberalism I have promoted purports that individual rights have to be based on the universal status of the personhood and detached from particular – that is, substantially determined – identities. As Habermas rightly pointed out in his early writings, the association between citizenship and nationalism is a historical contingency and not a conceptual necessity (Habermas, 1998, pp. 233–234; Habermas, 2000). Habermas has recently become more communitarian, as he now advocates a substantial – even though political – culture in order to make the European Union more social and democratic (Habermas and Derrida, 2003; Habermas, 2006, p. 41). It can be argued, however, that constitutional patriotism is harmless only if it is understood as a political practice of resisting particular identifications. For if it relies on the same kind of identification as conventional patriotism, it can lead to similar dangers for individual freedoms (Markell, 2000, p. 40; Lacroix, 2004, p. 183). It is thus less ambiguous to speak about a cosmopolitan citizenship, clearly detached from any particular identities, be they sub-national, national or supranational.

In this approach, a common identity is not a necessary condition to have a lively democracy and a fair social system. Some empirical data give support to this normative argument: psychological or sociological studies show that a particular common identity is not a prerequisite for individuals to adopt universal moral principles (Hoffman, 2000), and that an important cultural diversity is not contradictory with extensive systems of social welfare (Banting, 2009, pp. 335, 340). In addition, we could also argue that political and social democratisation processes often historically preceded the consolidation of a national identity.

In this radical liberalism, the priority should therefore not be given to the integration of people of immigrant origin in a common national identity, be it political and inclusive, but rather to guaranteeing their real individual emancipation.

Beyond the right to individually express ones cultural affinities, this purpose of emancipation also requires some stringent social and political conditions. The liberalism defended here is radical in the sense that it takes into account the necessary transformations of society to reach a real freedom for all. Note that in the French controversy about the *Hijab*, some members of the Stasi commission insisted on the idea that effective social justice was a precondition for republican emancipation (Pena-Ruiz, 2004), but the final report and the resulting law did not integrate this dimension.[15]

An extensive acceptation of individual freedoms – requiring not only respect for civil and political liberties, but also extensive social rights in order to reach real and not just formal freedom – could justify wide-ranging socio-economic policies improving young people's development at school and in professional life. Such policies would allow them to reach autonomy on the different levels. Indeed, if it is simplistic to argue, as some authors do (Gitlin, 1995; Rorty, 1998), that only redistribution matters and that identity politics is only a way of diverting attention from the real issues, it is also reductionist to consider, like many scholars since the 'cultural turn' in the 1980s (Fraser, 2000, p. 25), that only culture and identity matter. Emancipation requires both socio-economic redistribution and cultural recognition (Fraser, 2005). Such perspective can be found in the French socialist tradition and more particularly in its 'liberal socialist' dimension that justified socialist policies by an objective of real freedom. Even Jean Jaurès, one of the most important figures of French republicanism, rejected the opposition between socialism and liberty, saying that there is no real freedom without accessible property for all – which means, without 'social property'– and asserted that socialism deepens and furthers the individualism of the revolution (Audier, 2006, p. 39).

If Rawls's liberalism takes into account this necessity of social policies to achieve individual freedom, it is too restrictive, in the sense that it rules out radical transformative policies by protecting the right to private property (included in the fundamental liberties) and by justifying inequalities under certain conditions (Rawls, 2005, pp. 6, 164). Particularly, Rawls' idea that inequalities can be accepted only insofar as they benefit the least advantaged in society can easily be manipulated by political discourses, for very anti-social policies are often presented as means to improve the well-being of the population. Take the common (very Rawlsian) argument according to which decreasing wages should make labour cheaper and thus diminish unemployment, thereby improving the situation of many unemployed workers. This assumption, which derives from the economic liberal theory, can be contested not only on ethical, but also on economic grounds. Keynesians have, for example, argued that low wages often lead to increased unemployment rather than to the creation of new jobs, because of their negative impact on consumption and thus on companies' investments (Orio and Quiles, 1993, pp. 35–36, 83; Husson and Coutrot, 2000). By the same token, the economically liberal assertion that low taxation on capital income, even if it first leads to more inequality, in the end increases the general well-being by stimulating investment and jobs (Boncoeur and Thouément, 2004, pp. 71–72) can be criticised on Keynesian terms: an important part of capital income is actually not invested in the productive sphere, but saved or used for speculative activities (Lehouck, 2005, pp. 52–53). In the end, the amount of acceptable inequalities in society as well as the possible restrictions public authorities

inflict on private property are political questions that should not be settled beforehand by general principles of justice. According to the radical liberalism defended here, a much stronger limitation of private economic freedoms and a far more resolute struggle against social inequalities are essential to guarantee everyone's effective, and not just formal, freedom.[16]

A liberal version of the ideal of non-domination can also provide a useful framework to tackle the question of the *Hijab*. In this conception, important public policies are necessary to guarantee that individuals are not subject to possible arbitrary intervention, contrary to their preferences and interests (Pettit, 1997; Laborde, 2008, p. 16). If one makes a liberal interpretation of this concept and applies it to the question of the *Hijab*, the central purpose becomes effective individual emancipation and not national unity or cultural identity. The essential objective must be for the young Muslim girls wearing the Islamic veil to become free (intellectually, financially and professionally). The fact that they do or do not wear the *Hijab* becomes a secondary question, as long as they have made the choice themselves. The ban on religious signs thus seems absurd if the purposes to be reached are effective individual emancipation and a state of non-domination. But this ideal of non-domination need not be associated, as in Laborde's critical republicanism, with patriotism.

Finally, in addition to post-national and socialist dimensions, a radical liberal vision should also highlight the importance of democratic participation in dealing with cultural diversity. However, this dimension must only be instrumental, the main objective being individual emancipation. Contrary to republican approaches of political participation such as Laborde's (Laborde, 2008, p. 237), the idea here is not to multiply the deliberative forums in which all citizens, including those of immigrant origins, could actively take part in the definition of the common identity of the nation. Giving a voice to these citizens should not be an end in itself, but only a means for them to defend their rights directly or indirectly through representatives.

A radical liberal vision of the question tackled in this paper, therefore, leads to a shift in priority: the main purpose is no longer to affirm an identity (be it the identity of cultural minorities or that of the nation) but to reach an effective individual emancipation, what requires a recognition of the individual right to cultural expression and the implementation of extended political and social rights. Wearing a religious sign then becomes secondary, for what matters is unimpeded civil (and by extension, cultural), political and social rights.

Conclusion

In recent years political and intellectual reactions to cultural diversity have in France been increasingly cast into a 'national-communitarian' republican

prism. This was particularly obvious in the way the wearing of the Islamic veil at school was dealt with. The *Hijab* was presented by most political elites as a transgression of the basic values of the French Republic, which, therefore, required a firm response and the reaffirmation of national core principles, in particular, the one of *laïcité*. Official arguments used to justify the ban on religious signs at school were more communitarian than liberal, as they mainly highlighted the need to preserve national unity and republican values against the dangers of cultural fragmentation and of a questioning of public order. More liberal and universalistic arguments (diversity and individual freedoms) were also expressed by the defenders of the ban, but to a much lesser extent and were also subordinated to an all-embracing communitarian rhetoric. Therefore, the law forbidding religious signs seemed to be essentially a 'national-communitarian' measure aiming to reassert national unity and identity.

In an attempt to complement the critical analysis made by the opponents to the law by a more prescriptive stance, my discussion of Taylor's, Kymlicka's and Laborde's contributions not only underlined some of their strong points, but also their illiberal potential: both a group rights multiculturalism and a civic patriotism rely on a strong promotion of some kind of collective identity (be it national or sub-national), which can be contradictory with the ideal of cultural diversity and lead to substantial infringements of individual rights.

Finally, I have shown that other perceptions of this question are conceivable. Let me summarise the three dimensions stressed by the radical liberalism brought forward in the last section of the paper. With regard to the identity dimension, this approach suggests the reinforcement of State neutrality and the recognition of cultural rights, provided that they are individual, as group rights can too easily infringe the liberties of the members of the groups, particularly the most vulnerable ones, like women. This proposition integrates the multiculturalist concern for cultural recognition, but does so in a liberal and individualistic way in order to prevent any negative impacts on individual liberties. According to this line of thought, the wearing of *Hijab* in schools by Muslim girls can be construed as a right to cultural identity, extending individual basic rights such as the freedom of conscience and of expression.

In addition, a critical stance towards sub-national communities should not be completed by the promotion of a patriotic communitarianism. The post-national thrust of this liberal approach does not advocate the integration of people of immigrant origins into any sort of patriotism, whether ethnic or civic. Instead, for a post-national vision, it is both unnecessary and potentially pernicious for individual freedoms to ground citizenship in a common identity. The basic consensus of a society should be based less on the identification to the values of a particular community than on the practice of citizenship rights based on universalistic principles. This liberal approach eschews the risks of

obscuring contradictory social interests behind a fictitious homogeneity as well as of the overvaluing of the national community usually deriving from a strong identification to the community.

This radical liberal view also invokes two other dimensions, taking into account the gap between actual social structures and normative ideals, and aims to shift the focus from cultural to individual emancipation issues when dealing with debates such as the *Hijab*: improving the social conditions of citizens of immigrant origin and giving them more possibilities to express their political voice would guarantee a fulfilment of real individual freedom and would allow for a social and political rather than simply a cultural management of their problems. These two dimensions are neglected by most multicultural and republican positions that mainly focus on identity issues and cultural claims, either to oppose or to welcome them. The three dimensional liberalism advocated here comes closer to progressive and critical forms of republicanism such as Laborde's in its defence of social justice and political participation. Nonetheless, it differs from it in its post-national conception of citizenship and in its more instrumental vision of democracy. In the end, for this radical liberalism, the objective is the full realisation of individual emancipation.

Notes

1 For an explanation of the various historical conflicts around the principle of *laïcité*, see Baubérot (2008).
2 Muslim term for the veil worn by Muslim women.
3 For example, R. Debray, E. Todd, C. Jelen, T. Todorov, A. Finkielkraut, G. Coq.
4 *Le Nouvel Observateur*, 2–8 November, 1989 (sentences quoted were translated by the author).
5 *Le Monde*, 10 July 1998.
6 The highest administrative jurisdiction in France.
7 Sentences quoted were translated by the author.
8 *Loi encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics*, http://www.assemblee-nationale.fr.
9 *Commission de réflexion sur l'application du principe de laïcité dans la République*, Report to the président of the Republic, 11 Decembre 2003, http://www.ladocumentationfrancaise.fr.
10 The law did not keep all the propositions made by the commission, and some of its members criticised it afterwards: R. Rémond, A. Touraine, G. Hudson and G. Petek (Bernard and Kauffmann, 2004).
11 Sentences quoted were translated by the author.
12 If some members of the commission like Régis Debray supported the idea of group-rights, this vision was kept neither in the report nor in the law. In addition, as I will show further in my discussion of Taylor's theory, communitarian patriotism is not incompatible with some multiculturalist proposals. Even if Debray accepts the recognition of group-rights, he still insists on the importance of an overarching sense of belonging to the nation: *'Fédérer n'est pas nier des attaches culturelles préexistantes, mais les encastrer sous un horizon plus vaste, sans disqualifier*

l'ancien. C'est recréer cette 'communauté des affections' sans laquelle chacun retombe dans 'l'étroitesse des égoïsmes et l'impénétrabilité des âmes closes' (Jaurès)' (Debray 2004, p. 54).

13 Touraine even said that he would find it *utterly absurd to forbid the veil in the name of feminism and women's dignity, since such a decision would imply that women are considered as manipulated, unable to make decisions on their own and therefore as minor* (quoted in Baubérot, 2003b) (translated by the author).

14 The difference between patriotism and nationalism seems mostly to be a difference of degree rather than of nature. The ambivalence of both comes from the primacy they give to identification to a particular community (Lacroix 2004, pp. 114, 183).

15 It was one of the critiques made by four members of the Stasi commission after the law was passed (Bernard and Kauffmann, 2004).

16 This concern for redistributive policies is much more present in Ronald Dworkin's liberalism, who affirms that individual freedom requires the equality of resources (Dworkin, 2001). However, this conception is distinct from the radical liberalism promoted here, among others, in its central focus on equality rather than liberty, and in its emphasis on a sense of community to sustain the polity.

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