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Democracy, secularity and religious freedom: which balance is there in France and Europe?

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The terrorist attacks of the recent past that have struck France have re-opened debate over identity and the place of religion, notably Islam, in French society.

This debate has led to questions about the potential for unity and cohesion of Republican values in the modern world. Regarding fraternity, mistrust has replaced the short interlude of "multiculturalism" in French society at the end of the 90's and the beginning of the 2000's. For its part the goal of equality refers to the issue of non-discrimination and solidarity, and also to the end of privileges and corporatism. At the same time there is the question of the place occupied by young people in our societies, including those born to immigrant families, who find it difficult to enter the job market, to win their material independence, and also to satisfy their need for an ideal, in the absence of any mobilising project. Finally, the strong public mobilisation after the Charlie Hebdo Attack shows

that freedom can be a powerful driving force in terms of social bonding, if we recognise that this is not self-evident. It is this principle of freedom that has brought the French and beyond France's borders, many Europeans together, since although political freedom was quite easily deemed to be a given by the political world – economic freedom has been considered negatively, notably in France, since it reflects ultra (neo) liberalism and therefore has been deemed incompatible with the ideal of equality. Increasingly however, many citizens are experiencing the effective limits of this freedom; this is the case notably in the suburbs, where individual freedom is threatened by various kinds of insecurity and also fundamentalism, which is negating this liberty.

Discussion goes far beyond France and has taken on a European dimension. After the terrorist attacks in several EU Member States, these events, both in France and elsewhere in Europe, have shown they can unite as they can divide. Solidarity and unity must win

the day, but the fear is that these new catastrophes are heightening not only division within French society, but also in and even between other European countries; when this type of event occurs in "healthy" societies, recovery is difficult; but in societies that have been weakened by successive crises, it is even more complicated. In this context, beyond the fight to counter terrorism, via military action abroad and by police enforcement and justice at home, the present events raise at least one fundamental issue for the cohesion of society, whose unity is necessary more than ever before given the crises that are affecting it: that of the place of Muslim citizens in European society. Given that debate about an issue as sensitive as this one is too often polarised between radical positions, the ideas that follow have no other aim but to provide some points of reference to help find our way through the discussion of the relationship between freedom and religious belief, recalling some key principles of the foundation of Europe's liberal democracies which have to be reasserted.

1. FRANCE, THE REPUBLIC AND SECULARITY REGARDING ISLAM

The question of Islam has almost become an existential one in France, in that it affects the country's identity. But the debate over Islam raises multiple questions: the place of religion, or more specifically, of Islam in French society; the link between Islam, immigration and demography; Islam and the crises in the Middle East[1]; Islam and the "suburb"[2]; conflict between ideological fundamentalism and secular Islam; the attraction of fundamentalism (notably for young people) as a globalised ideology of the rejection of Western societies to the benefit of the promise of a new order[3] or rather a return to a mythical past [4]. Hence, we have to distinguish between the various registers which include:

1. See J.-P. Fillu, *Le nouveau Moyen-Orient. Les peuples à l'heure de la Révolution syrienne*, Paris, Fayard, 2013 et *La révolution arabe. Dix leçons sur le soulèvement démocratique*, Paris, Fayard, 2011.

2. G. Kepel, *Banlieue de la République*, Paris, Gallimard, 2012.

3. O. Roy, « Le djihadisme est une révolte générationnelle et nihiliste », *Le Monde*, 24 November 2015.

4. This incidentally distinguishes religious fundamentalism from the totalitarianism of the 20th century which maintained "unfailing faith in history and in the promise of the future"; M. Gauchet, « Les ressorts du fondamentalisme », *Le Débat*, n°185, May-August 2015, p. 73. See also B. Bruneteau, « L'islamisme est-il un nouveau totalitarisme ? », *Commentaire*, n°152, Winter 2015-2016, pp. 795-799.

- Immigration and the conditions for the co-existence of cultures, which are originally foreign to each other;
- The socio-economic question associated with endemic, persistent unemployment and extremely problematic social integration, despite the success of some personalities from the immigrant community in the political, cultural, scientific and economic fields;
- The ideological and security challenge set by Islamic fundamentalism and terrorism;
- The strategic question set by the upheaval in the southern Mediterranean and in the Middle East etc ...

It is in this context that the relationship between the Republic, Islam and secularity has to be thought about anew. The issue at stake lies in the transformation of our national and European democracies and in the reshaping of problematic relations and divisions that form the core of liberal regimes, between public and private, universal and particular, unity and diversity, freedom and security, religious belief and the rule of Law.

Over the last ten years political and intellectual debate in France on this has focused on quite clear divisions between the various elements[5]. On the one hand, there are those who believe that the Christian legacy is part of French and European identity, and who think that Islam is not compatible with the French nation – a position to be found rather on the right of the political scale; on the other – and rather more to the left – there are the defenders of the Republic and secularity, which are split between the “pessimists” for whom Islam and secularity are incompatible and the “optimists” who hope for the development of a secular Islam. Moreover, there is a Republican break-away intellectual trend emerging on the left, which deems that the source of the problem lies in the links between Islamic fundamentalism and antisemitism.

It is in this context that we regularly find the political project (both on the right and left) that aims to revive the lacking sense of a protective, reassuring

identity (the failed debate over national identity and the assertion of the necessary strengthening of the sense of belonging to the Republic”[6]) and of recovering the sense of belonging to the national community. However, the temptation to revive the old features of the nation, of the Republic and secularity[7] – in its “defensive” form – does not seem to be on a level with the issues in question:

- Firstly, because the link between Republic and secularity is the product of a singular political history in France, between the Republican State and the Catholic Church, and because this equation is undoubtedly not automatically applicable to relations between present French democracy and Islam;
- Then, because although young people continue in the main to endorse Republican values, clearly a share of them – even though they might be in the minority – do have a problem with “the consensus surrounding Republican values” that we are trying to revive[8];
- And finally, because the model of “combative secularity”, which was one of the main components of the Republic’s history, answers to a conflictual logic, which of course played a vital role in the construction of French identity, but which is possibly not the best means to answer the question of the place of Islam in French society.

However, although we cannot recreate the sense of republican belonging by brandishing the words “Republic” or “secularity”, national and local public action has to be guided by the need to drive home once more the practical pertinence of certain values. This is particularly the case with freedom. When children or teenagers say “I am not Charlie” or worse “I am Coulibaly”, they have to be made to understand what it would mean for them, in terms of freedom, if society were to be guided by fundamentalism, and for them to ask whether they would like to live in a society like that: what would fundamentalist France look like? This is also the question to be asked with other forms of radical behaviour. This is where policies of education and training find their full meaning – at all levels – from

5. O. Roy, *La laïcité face à l’islam*, Paris, Stock, coll. « Les essais », 2005

6. See the report by the French President of the Senate, « *La nation française, un héritage en partage* », 15 April 2015.

7. P. Manent, *Situation de la France*, Desclées de Brouwer, 2015.

8. See O. Galland, B. Roudet, *Les jeunes Européens et leurs valeurs*, La découverte, « Recherches », 2005 and *Une jeunesse différente ? Les valeurs des jeunes Français depuis 30 ans*, La documentation française, 2012.

the primary school to University, not forgetting the “colleges”[9]. When shall we see the “new Hussards of the Republic”?

2. SECULARITY, RELIGIOUS FREEDOM AND DEMOCRACY: A EUROPEAN IDENTITY?

Secularity, another “French” exception?

As Dominique Schnapper wrote *“We have known it for years. The hate of France and the hate of Jews has grown in certain so-called “sensitive” areas (...) And yet the fear of stigmatising Republican Muslims – we should not forget that the massive phenomenon is that of the progressive integration of the majority of the population who are descendants of North African immigrants – and also for not having known how to counter this ill, an embarrassed, well-meaning silence has covered these facts in a veil of ignorance. Out of weakness, cowardice, out of a legitimate desire not to stigmatise all Muslims, the intellectuals keep their mouths shut, denouncing Islamophobia rather than anti-Semitism, including making accusations against “republicanism” whose rigidity and refusal to acknowledge “differences” is said to have been to blame for these recent events. It is not about covering up the fact that “although Islamism is not Islam, as we have so often and rightly repeated, it remains that it is in the name of Islam that the terrorists act with particular barbarity, and that they pretend to find justifications for their action in the holy texts”[10].*

And yet, debate about the place of Islam in France seems to show that secularity must undoubtedly rise above its defensive, uniformist tradition, to acknowledge cultural and religious identity, whilst countering Islamism as a political ideology that seeks to reorganise all aspects of society against Western values: *“although the excesses of multiculturalism practiced in the past in the UK are dangerous and reprehensible, the bid to negate the heterogeneity and diversity of customs and beliefs, together with the shock felt by certain groups in the face of modern society and the changes in moral attitudes, will simply lead to a feeling of exclusion and inspire or*

fuel hostile feelings. The biggest problem however is to prevent the dialectic of extremes, between opposite religious passions or between religious or secular passions, leading to an escalation in Islamophobia on the one hand, to anti-Western and anti-Jewish feelings on the other. It is important to distinguish young people in quest of identity or revenge for their poor situation or against society in general, from fanatic and murderous leaders, who kill those who do not share their view of Islam[11].” From this standpoint, although the republican State is secular and although the neutrality that it claims to assert (e.g. one’s religious beliefs should play no role in access to public office; no religion must be favoured to the detriment of the others etc.) individuals are free, to believe or not to believe, to take part or not in the practice of one religion or another. Opposition to the exercise of these freedoms can only be made on the grounds of public order. From this point of view secularity must allow individuals not to “look like each other” but to “rally together in a common, mutually respectful framework”[12] ; “French-style” secularity finds itself trapped in ambiguity.

France is the only State in the Union to have included secularity in its Constitution. With this it is an original model in Europe in that other Member States have not established the separation of the Church and the State quite as strictly. However, although France is the only “secular” country in the strict sense of term, it is part of a European area of Human Rights. However, although European law, whether this is in the Treaties of the Union (TEU, Charter of the Fundamental Rights) or the European Convention for Human Rights (ECHR), does not establish secularity, it now conditions its development. European law acknowledges religious freedom (art. 9 of the ECHR[13] ; art. 2 of the TEU[14] ; art. 10 of the Charter of Fundamental Rights[15]) and offers, in effect, the paths that enable the guarantee of the freedom of thought and religious pluralism; in a word it obliges the State to a certain amount of neutrality. This requirement can now be accepted by all of the Member States which share a community of values: freedom, equality,

9. See O. Galland, A. Muxel (dir.), *La tentation radicale. Enquête sur les lycéens*, Presses universitaires de France, 2018.
10. *Ibid.*
11. P. Hassner, *La revanche des passions. Métamorphoses de la violence et crises du politique*, Fayard, 2015.
12. See A. Bergounioux, « Usages et mésusages de la laïcité », *Telos*, 7 April 2015.
13. ECHR, Article 9 –Freedom of thought, conscience and religion:
1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.
14. TEU, Article 2:
The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.
15. Charter of Fundamental Rights, Article 10 – Freedom of thought, conscience and religion:
1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.
2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.

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pluralism, tolerance, equality between men and women, non-discrimination.

Freedom of worship and European identity

The freedom of worship is one of the least questionable of the fundamental rights in the intellectual sphere of European liberal democracies[16]. Of course, the nature of relations between the Church and the State varies from one Member State to another: the UK is a non-secular country because it has an official religion (and the Queen is the Head of the Anglican Church), the Orthodox Church enjoys a particular status in the Greek Constitution etc ... However, European societies distinguish themselves via their high degree of secularity (except possibly for Ireland and Poland) and stand apart from other Western countries such as the USA, a secular country (confirmation of the separation of the Church and the State), but which allows a major place for religion in the public sphere. It is, incidentally, this difference in terms of secularity that undoubtedly allows us to see the difference in the way the media dealt with the Paris attacks in January 2015 and the caricatures on the European continent and across the Anglo-Saxon world (or more precisely a share of the Anglo-Saxon world)[17].

In European societies every individual is free to believe or not to believe in God; if he believes, he is free to accept the opinions and doctrines he deems to be the most appropriate; he is also free to change religion. In this sense the freedom of belief is one of the vital components of a person's freedom and – one vital point – it is a particular expression of the freedom of thought and in fine of freedom itself, an imprescriptible human right, and which must be placed at the heart of European identity.

Non-negotiable limits

European history has a wealth of lessons regarding the recognition of religious pluralism and its limits. An entire tradition, directly linked to the context of the Wars of Religion – has tried to establish religions of equal dignity, asserting that the freedom of conscience of each of us must be inaccessible by the State and also the Church[18]. From this standpoint faith is a

question of critical assessment and judgement; in other words, the truth cannot be separate from the quest for the truth, and in liberal democracies, religions can be subject to the critical assessment of reason.

These democratic, liberal requirements make total sense in the present context and the words of Ghaleb Bencheik reflect this: *"It is a re-founding of Islamic theological thought that is required (...). Ending "religious reason" and "magical thinking", escaping the argument of authority, shifting concerns from belief towards problems of the objectivity of knowledge are of an imperious necessity and a vital requirement. We no longer need to infantilise minds and make people feel guilty. There is a huge amount of work to be done and this is a matter of urgency; pluralism, secularity, the disentangling of politics from religion, the basic equality between being, the freedom of expression and religion, the guarantee of being able to change religion, deconsecrating violence, the rule of law are some of the vital answers and primordial antidotes that are required."*[19]

The problem arises when the rights of conscience oppose State legislation and the question is raised of knowing what the limits to the tolerable are in this regard; the same applies to the person who claims to know the so-called "truth" of his particular faith with intolerance? Which type of behaviour is defensible and which is inadmissible in terms of belief? What should be done if a person decides to follow his/her conscience, he/she decides to act against the security and freedom guaranteed by the State? Political liberalism provides a clear answer to this question. The State was established to guarantee the protection of life, freedom and individual property and therefore it has a secular role to protect the temporal interests of the members of society; for its part the Churches are voluntary assemblies of men and women who gather to worship their god and by doing this, they take care of the fate of their own soul by seeking paths of salvation – in this sense the Churches exercise a spiritual role through persuasion and not coercion or force[20]. These are the circumstances in which one can exercise the freedom of worship and faith. In this context the State must allow the Churches to introduce and practice the

16. Cf. A. Bergounioux, « Laïcité : un procès en libéralisme ? », *Telos*, 1 February 2018.

17. http://www.washingtonpost.com/opinions/what-it-means-to-stand-with-charlie-hebdo/2015/01/08/ab416214-96e8-11e4-aabd-d0b93ff613d5_story.html
<http://www.nytimes.com/2015/01/08/world/europe/charlie-hebdo-broke-taboos-defying-threats-and-violence.html>
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18. P. Bayle, *De la tolérance. Commentaire philosophique sur les paroles de Jésus-Christ, Contrains-les d'entrer* (1686).

19. Quoted in D. Schnapper, « Pourquoi cette haine ? », *op. cit.*

20. J. Locke, *Letter on Toleration* (1689).

kind of worship they want, on condition that they force no one to share it and that they do not threaten the interests – life, safety or property etc. – of those who do not share their beliefs. This is the political, non-religious principle that results from the separation of the political from the religious, as two autonomous spheres, as well as the containment of religion to the private sphere and to individual opinion.

In this sense secularity – in its “inclusive” and “non-defensive” acceptance, must be designed as a protection of religions against religious fanaticism: *“Religious groups strongly motivate people who participate in them, like political parties, they cover affective and militant aspects. And just like militant, ideological reality, they can generate, in certain circumstances, intolerant attitudes and even fanaticism and violence. Hence the need for a type of secularity that protects us from clerical, absolutist threats that religions can pose when they want to force their normativity on their members (...), and even extend these standards across all of society. (...) In the face of the morbid attraction that people have for the Islamic State-style jihad, given the terrorist risk, vigilance and mobilisation on the part of the State and society itself are necessary and legitimate. And yet this is not a reason to persist stubbornly with a defensive idea of secularity that aims to protect society from religion as if it were a fortress under siege by politico-religious fanaticism. On the contrary it is an additional reason to implement a proactive, inclusive idea of secularity designed for religious people who are not fanatics in the main, in other words a secularity that is sufficiently self-confident to positively take on board the contributions made by the religious elements of society. This inclusive secularity seems to us to be the best rampart to counter religious fanaticism.”*[21]

This concept of secularity should lead to debate over the freedom of worship which is – and we must emphasise this once more – a part of the freedom of thought and cannot be limited, and the freedom of expression, which can be restricted according to terms defined by law. In this sense the re-assertion of these principles that came from the Enlightenment is not an admission of weakness nor a relinquishment in the face of those who would like, in the name of religion,

to impose by force the reorganisation of all aspects of European society through a total and complete rupture from the values that most citizens of European liberal democracies adhere to: freedom, equality – firstly between men and women – solidarity, pluralism, tolerance, etc. These values are non-negotiable and in no way can a narrative dictate – in the name of religion - behaviour that aims to challenge them or to reduce individual freedoms that are protected by the Constitution including within the family, and in the first instance, security.

Given the violence of the terrorist attacks, there is great danger that response to these events will itself produce violence. Avoiding this type of trap supposes making a correct distinction between two types of challenges and implications.

On the one hand, it means identifying and countering politico-religious fundamentalists who try to turn young people, in their quest for identity and the absolute, into fanatics, as well as to trigger civil war in Europe and with whom it is impossible to negotiate. Beyond the fear, the emotion and the mourning in the wake of the violence of the terrorist massacres, this supposes an understanding of the jihadist phenomenon, and its development over the past few years[22] and defining police resources (including cyber-police to counter ideological propaganda on the Internet and the social networks), justice, but also defence, so that we are able to rise to challenges like this in a context in which traditional distinctions between interior and exterior, and also between the State and non-State have become entwined.

On the other hand, it means organising discussion between the various elements of our societies – since of course each of the latter is different and laden with power relations – aiming for compromise and not polarisation, which would only lead to fragmentation. The difficulty lies in the fact that the challenges we face are also multi-faceted: there is a cultural challenge raised by the issue of the co-existence of cultures that were originally foreign to each other; there are public policy challenges – education, urban policy;

21. J.-P. Willaime, « La contribution d'une laïcité de dialogue au renforcement de l'appartenance à la nation », contribution to the citizens' consultation initiated by the President of the Senate : « Engagement républicain et sentiment d'appartenance à la nation », February 2015 ; see also « La prédominance européenne d'une laïcité de reconnaissance des religions », in J. Baubérot, M. Milot and P. Portier (dir.), *Laïcité, laïcités. Reconfigurations et nouveaux défis*, Editions de la Maison des sciences de l'homme, 2014, pp. 41-63.

22. G. Kepel, *Terreur dans l'hexagone. Genèse du djihad français*, Gallimard, 2015.

socio-economic integration issues; etc. This discussion has to take place within a framework of clearly set rules – within a framework of common principles that form the base of our constitution and the European treaties. On the basis of these common principles, formed by the core of the political liberalism of the Enlightenment, European societies must succeed in forming an agreement on the respect of these common values. These should allow each of us to defend the values we deem fundamental, possibly against the choice of the legislator, without this opposition leading to insurmountable conflict, which would divide society, and without the debate of ideas transforming into the opposition of the national and European political systems themselves. It is precisely this type of rule which forms the base of constitutional democracy, which anticipates and provides the necessary tools to take decisions in a context of divergent preferences, without fragmenting society and undermining the foundations of the democratic system. Agreement on a common principle such as this, or on the rules of the game, must be deemed legitimate by the citizens of a political community. Tocqueville wrote "*Without common ideas, there is no common action and without common action, men still exist, but there is no social body.*"[23]

As Pierre Hassner said, "*Liberal democracy which won the Second World War and the Cold War is under attack from all sides. Some explain this by the fact that the liberals do not really believe their own ideas and that they are not prepared to sacrifice themselves for them .*" [24] In a situation in which confidence in the democratic institutions is being undermined and the rise of populist, anti-liberal forces, it is urgent for national and European political leaders to emerge from their inertia and re-assert loud and clear the values that underpin liberal democracy and which citizens hold dear in the main. The French and the Europeans will only be able to overcome their malaise in the face of a collective identity deficit if they are sure of their joint principles and that they are prepared to defend them: this is a vital condition for the cohesion of European societies. History has shown that the passion for freedom often enabled men and women to rise beyond their own limits.

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23. A. de Tocqueville, *De la démocratie en Amérique*, vol. 2 (1840), Part One, Chapter I, « De la source principale des croyances chez les peuples démocratiques » ; Gallimard, coll. « Bibliothèque de la Pléiade », 1992, p. 519.

24. Interview with P. Hassner, « Tout l'art de la politique est de combiner passion et modération », Centre de Recherches Internationales (CERI) de Sciences Po, 17 December 2015 <http://www.sciencespo.fr/ceri/fr/content/tout-l-art-de-la-politique-est-de-combiner-passion-et-moderation>

See also A. Shulsky, « La démocratie libérale : victorieuse et assaillie », *Commentaire* n°148, Winter 2014-2015, pp. 725-732.