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## **“French-style” parity and diversity: the temptation of inclusion conditioned by performance for “non-brothers”**

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*“How do we explain the fact that we almost unanimously wish for a fairer, less unequal society, but at the same time act collectively in a way that clearly helps maintain and even deepen important forms of inequality?”*  
(Savidan, 2015, p. 344).

### **Introduction**

In the paradox of our wish for a less unequal society, while we foster inequality through individualistic decision-making, the philosopher Patrick Savidan sees the expression of a partial denial, *“in the sense that it is not a complete denial of the problem, but a denial of the scope of the radical changes needed to resolve the problem”* (Savidan, 2015, p. 344). In his view, the complexity of the contemporary situation is based on the fact that the feeling of social insecurity and precarity gives rise to selective and limited forms of solidarity. If we are to do away with the individualistic temptation to prioritise our own interests and those of the people closest to us to the detriment of egalitarian principles, he believes we need *“to act on the pathogenic forms of uncertainty, the forms that discourage cooperation and paradoxically promote unbridled competition”* (Savidan, 2016, p. 12). We would then be in a position to break free of the collective and individual belief that we need competition between “them” and “us” if we are to avoid ending up as losers in the social game. This is the precondition for inequality to become a public issue and no longer to result in solidarity only towards people like ourselves and competition between unequal parties. The challenge is to implement a form of social justice that is not based on competition between individual interests, but on a political community founded on a shared allegiance to the principles of equality and solidarity. An analysis of the public reasons given to promote equal opportunities and diversity allows to see how this challenge brings into play the struggle against economic inequality and the fight against sexism and racism. It throws light on theoretical but also practical issues in contemporary debates about the tensions between the policy of equality and the policy of identity, redistribution and recognition.

In an article entitled “Too Diverse?”, the journalist David Goodhart (2004) points out that we need to choose between fighting economic inequality among citizens who feel solidarity for their own kind, since they see the other participants in a homogenous society as similar to themselves, and promoting diversity, particularly through immigration policy. Described as the “dilemma of progressivism”, this alternative has given rise to widespread debates in the United Kingdom (Pathak, 2007, 2008; Johns, Hyde, Barton, 2010), the United States (Putnam, 2007) and France (Bouvet *et al.*, 2011; Guilly, 2013, 2014; Mergier, Peugny, Fourquet, 2013). Keith Banting and Will Kymlicka (2004) criticise the relations between the existence of so-called multiculturalist policy in a country and the erosion of the Welfare State as the expression of a fear that is of no help in the debate about the relevance – or otherwise – of a policy of this kind. In France, these debates take the form of controversies around the expression “cultural insecurity” (Bouvet 2015, Bouvet et al. 2011, Guilly 2013, Guilly 2014, Mergier, Peugny & Fourquet 2013). The term is used to describe the identity issues experienced by those who are affected by economic and social difficulties, and express concern about their identity in a context of globalisation, upheavals in values and increasing immigration. These debates prolong the discussions and oppositions within the French left about how or whether to arbitrate between commitments to social justice and taking action against sexism, racism and homophobia. Historically, the priorities and expression of inequalities and struggles (Fraisie 2001) have taken the form of submission of the gender issues to the class struggle within an ambivalent Marxist heritage (Haug 2001, Gimenez 2001).

In this chapter, we aim to highlight the issue of the paradoxical persistence of inequality in France, a country where equality is ranked as the number one principle in the political “lexical ordering” (Rawls, 1987, p. 68), by examining its meaning and the dilemmas involved.

*Capital in the 21<sup>st</sup> Century* (Piketty, 2013) may have been an outstanding scientific and commercial success, but most of the work devoted to the principles of equality attracts a small audience and is associated with an idealism “without any anchor in reality” (Anderson, 2010, 3; Mills, 2005; Simmons, 2010) and so has little or no social usefulness. This is paradoxical, since to overcome inequality, it is not enough to try to find out “how” to apply a pure or ideal principle; one must above all examine the sense of this principle, its meaning (the “what”), as well as its final result – both its aim and its purpose (the “why” and the “for whom”). Thomas Piketty’s diagnosis, whereby “*citizens’ so-called equal rights provide a striking contrast with actual inequality in living conditions*” (Piketty, 2004, p. 56), cannot be analysed by limiting oneself to an opposition between “formal” equality and “real” equality. The persistence of inequality reflects fundamental dilemmas of France, the country of the Declaration of the Rights of Man, and not only the compromises involved in applying ideals.

Given the results of the limited and discriminatory inclusion of those who have been theoretically and historically excluded from the republican fraternity – women, the non-binary and “non-whites” – our aim is to bring out the conscious and unconscious heritage of the “Liberty, Equality, Fraternity” tryptic. With this in mind, we will focus on the public justifications for contemporary policies promoting the inclusion of “non-brothers” (Sénac,

2017): the promotion of parity for women and diversity for “non-whites”. Breaking the taboo about the original sin of a fraternal French republic means casting light on history, but also on the modernity of the frontiers between “brothers” and “non-brothers” (Gaspard, 2011; Pateman, 1988). The expression “non-brothers” shows that the term belongs to a negative register, to a lack and to the active/passive opposition defining some groups of individuals as incapable of autonomy. We will analyse how the ideal and even the illusion (Mouffe, 2016) of consensus characterises public justification of the promotion of parity and diversity. A study of reports, speeches, quantitative data and qualitative surveys concerning the principles justifying the promotion of parity<sup>1</sup> and diversity<sup>2</sup> will help us test the hypothesis of cross-modernisation of the myth of equality and the complementarity of “non-brothers” in a context where diversity as performance (Ehrenberg, 1991) is associated with a response to the economic, social, political and anthropological crisis. “Performance” is understood here both as neoliberal profitability and the theatricalisation of identity.

The aim is to examine the modernisation of the original murder of equality for “non-brothers” who are not only “non-men”, but also individuals perceived as colours, as non-whites. The celebration of performance of sexual and ethno-cultural diversity is part of the same biopolitical register of highlighting the complementarity of “non-brothers” in contrast to “brothers”. We will start off by analysing the ways in which, above and beyond the apparent consensus about the principle of equality, its application has become a source of controversy, particularly regarding its political definition. We will then look at how the promotion of parity and diversity contributes to make equality conditional (Sénac, 2015) for “non-brothers”.

## **Equality in the 21st century: the end of the legal and political cycle?**

Associating the early 21<sup>st</sup> century with a new step towards equality means recognising that equality is both a legitimate and desirable aim and that the second half of the 20<sup>th</sup> century saw major progress in this area. The enigmatic persistence of *de facto* inequalities despite the achievement of legal equality, is often resolved by pointing out the difficulty in implementing equality considered nonetheless as the essential element both in the political and legal “lexical

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<sup>1</sup> Through two surveys: the first carried out in 2004-2005 among 83 national and local leaders at the French Socialist Party (PS), the centre-right Union for a Popular Movement (UMP), and members of feminist and/or women’s associations concerning the makeshift ideological approaches around the application of the “parity laws”; the second was conducted in 2011 among around 50 MPs with Rainbow Murray from Queen Mary University in London and concerning the way these laws raise questions about the conception of parliamentary *representation* (making the citizens present or *standing for*) and the *political choices of legislators (acting for)*.

<sup>2</sup> Through two surveys: the first was carried out from October 2008 to December 2009 among 163 political, institutional, trade union, NGO, business, religious and academic leaders. It looked at contemporary practices in promoting diversity. The second was conducted in 2015-2016 among around 40 institutional, political, NGO and trade union leaders, and was part of a study called “Jurisdiction and public bodies in the application of the principle of non-discrimination: multi-disciplinary and comparative perspectives”. It was funded by the Rights Ombudsman and the Law and Justice Mission at the French Ministry of Justice (June 2014 - June 2016).

ordering”.<sup>3</sup> This conception maintains that rights are supposed to be neutral and pure, whereas in fact they express theoretical and historical dilemmas at the heart of the principles of equality and liberty.

The “post-political vision” (Mouffe, 2016, 8) of the right to equality as already actually existing bears witness to a spirit of the times that, in considering “*the goal of democratic politics in terms of consensus and reconciliation, is not only mistaken conceptually but politically dangerous*” (Mouffe, 2016, 9). While, formally, equality can be reduced to isonomia or to the equality of each individual before the law, its concrete application raises questions about the links between legal, political, social and economic equality. “*For most radical democrats, the solution was to reduce the range [of social differences]. Redistribution was then conceived as a political as well as an economic goal. It was not only considerations of social justice that required us to equalise the distribution of resources and wealth; we also needed this equalisation to make good on the promise of democratic equality*” (Phillips, 2002, 55). Identifying the political boundaries (Leca, 1973), especially in the links between the social and economic spheres, is at the heart of the definition of democratic equality.

The analysis of the political aspect of controversies concerning so-called “gender theory” undermines, in particular, a frame of reference such as the one developed by Walter Benn Michaels (2009), opposing economic inequality, described as fundamental, to other forms of inequality, such as sexism and racism, described as cultural phenomena. In his view, if the questions of the fight against sexism and racism are compatible with injustices generated by capitalism, an economic system that they “optimise” and therefore strengthen, “by distributing inequality without distinction of origin or gender” (Benn Michaels, 2009, 10), it is because they see them as something exterior to the system.

### **Contemporary antifeminism or the continuing legacy of complementarity between the sexes**

The opposition to the legalisation of same-sex marriage, outlined in a bill dated 7 November 2012 and voted by the French parliament on 17 May 2013, brought out the topical nature of political and polemical aspects of equality. The debate focused on the issue of preserving a historic and identity-based heritage, founded on respect for the natural order arising from the complementary role of women and men in procreating and bringing up children. The opposition claimed to be a form of resistance towards the international narrative proclaiming an alternative reading of rights, particularly the defence of human rights (Sanders, 1994; Waites, 2009), and based on a “*dual association between sexuality and the legal theory of equality and non-discrimination, on the one hand, and access to citizenship on the other*” (Paternotte, 2011, p. 22). If the French law of May 2013 was defended by the Socialist government and parliamentary

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<sup>3</sup> Cf. Rawls, 1987, p. 68: “*This is an order which requires us to satisfy the first principle in the ordering before we can move on to the second, the second before we consider the third, and so on. A [new] principle does not come into play until those previous to it are either fully met or do not apply.*”

majority in the name of combatting “*discrimination and, as a result, the violation of equal rights, resulting in a form of sub-citizenship*”, its opponents defended the heterosexual family as the protector of the psychic order of individuals, especially children, as well as the political order.

By promoting initiatives such as the “ABCD of Equality” teaching programme, the French state was accused of going beyond the terms of its mission and taking a moral and not a legal position, concerning convictions about the Good and not about civic principles. By defending the role of the traditional family (where the father remains the “head of the family”<sup>4</sup>) in bringing up children, in particular by transmitting values and morality, the opposition to “gender theory” embodies a battle for the recognition of legitimate authority, a “clash of paternalisms” (Pélabay, 2011). The denunciation of the state’s illegitimacy in making equality between the sexes and sexual orientations an element in forming citizens is characterised by a gendered conception of the dividing line between the public and the private, where only the family, based around paternal authority, is recognised as legitimate in transmitting to children what pertains to defining the Good. Such a separation between Goodness and Justice may give the impression of a certain form of continuity with political liberalism. It is in fact totally different, since the withdrawal of the Good into the private sphere is not accompanied by a recognition of the dimension of “justice” involved in the equality of sexes and sexualities. It also undermines the legitimacy of the state in deciding, not on the question of what is good, but on what constitutes justice. Moreover, regarding the question of the separation between the private and the public spheres, which is one of the mainstays of political liberalism and a guarantee of individual freedoms, the position of opponents to so-called “gender theory” is ambivalent. While they defend the protection of the family as a private space outside politics,<sup>5</sup> particularly regarding children’s upbringing, they object to removing the choice of individual sexual orientation from the heterosexual-oriented political order. The mobilisation against so-called “gender theory” emerged after the publication on 30 September 2010 of a memorandum about the new Earth and Life Sciences programmes in French *lycées*. The controversial element in the memorandum was the statement that “*while sexual identity and sexual roles in society with their stereotypes belong to the public sphere, sexual orientation, on the other hand, is part of the private sphere.*”

## **Politics transcends culture and economics**

In a globalised context, the philosopher Nancy Fraser calls on us to politicise the question of frameworks through “a theory of post-Westphalian democratic justice”... “incorporating the political dimension of representation alongside the economic dimension of distribution and the cultural dimension of recognition” (Fraser, 2012, p. 262). The use of the word “alongside” raises questions about the status given to the political dimension when compared to the economic and

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<sup>4</sup> The law of 4 June 1970 abolished the notion of the head of the family, replacing it by shared parental authority.

<sup>5</sup> See in particular Hervé Mariton, “We need to preserve the private sphere of the family”, *Le Monde*, 7 February 2014; and criticism by the UMP president, Jean-François Copé, during the “Grand Jury” RTL-Le Figaro-LCI programme on 9 February 2014, of a book he claimed was being recommended to primary school teachers and entitled *Tous à poil (Clothes Off Everybody)*.

cultural dimensions. If the aim is to combine struggles against unequal distribution and the denial of recognition and representation, why should representation be “alongside”?

The answer given by Nancy Fraser about the “specificity of politics” (Fraser, 2012, p. 262-265) for the third dimension of justice helps to throw light on the complex relations between economics, culture and politics. She points out that this dimension “is politics” to the extent that, *“of course, distribution and recognition are themselves political in the sense that they are contested and laden with power and are generally seen as questions to be settled by the State. But here, “political” has a more specific, more essential meaning, touching on the nature of State competency and on the rules of decision around which the debate is structured. Politics conceived in this way sets the scene for struggles involving distribution and recognition. Laying down the criteria of social belonging and thus determining who counts as a member of the community, the political dimension of justice specifies the scope of other dimensions: it tells us who is included and excluded among those entitled to a just distribution and reciprocal recognition”* (Fraser, 2012, p. 264). From this perspective, to say that the political dimension is “alongside” the cultural and economic spheres means that it constitutes a transcendental condition, in the sense that it defines the conditions for the possibility of expressing demands for redistribution and recognition. The political framework determines the classification criteria used in the economic and cultural dimensions (class and status) and the legitimate procedures for formulating or undermining these classifications. Nancy Fraser highlights the transcendental nature of the political aspect in her three-dimensional theory as follows: *“Representation is always already present in a demand for redistribution or recognition. The political dimension is implicit in, indeed required by, the grammar of the concept of justice. Thus, no redistribution or recognition without representation”* (Fraser, 2012, p. 269). In a long footnote below this passage, she underlines the need to avoid a shift from the transcendental dimension of politics to its transcendence (Fraser, *ibid.*, note 9). The reinforcement of injustice between the three intertwined orders is thus a vicious circle needing to be deconstructed. To do so, one must think of and promote redistribution, recognition and representation as interlinked fronts. This three-dimensional and intertwined approach to justice in its economic, cultural and political aspects is based on a political framework whose essence is to define what is just and what is considered as part of the “class of equals”. The political dimension thus plays a fundamental role, since it conditions the terms of the debate, particularly regarding policies of redistribution and recognition. As Nancy Fraser points out, it *“concerns the nature of the state's jurisdiction and the decision-making by which it structures public controversies”* (Fraser, 2012, p. 264).

### **The performance of “*mixité*”: commodification of equality**

Echoing the denunciation of a “cultural turning point” in the 1980 in the US (Michaels, 2009; Fraser, 2012) and a “new spirit of capitalism” (Boltanski, Chiapello, 2011) bringing to a halt the radical demands for emancipation of the 1960s, combining anti-colonialism, feminism, socialism and ecology, my research questions the reappropriation of the demands for parity and diversity

by a neo-liberal republicanism in France. Defined as an “instrumental rationality”,<sup>6</sup> neoliberal rationality consists in “*taking action in society so that the competitive mechanism, at each moment and at each point of the social framework, can play a regulatory role*” (Foucault, 2004, p.150).

From this perspective, the promotion of parity and diversity is even less subject to controversy or debate since it is justified as the implementation of the principle of equality and as a response to the economic crisis, but also to social and political crises. The occurrence in public debates of arguments such as “women do politics and management differently”, “more women in corporate management is an added value” or “diversity is good for business” arises from a revised conservative ideology with a more respectable and benevolent appearance.

### **Promoting parity and diversity: inclusion conditioned by performance**

As part of our qualitative study into the contemporary uses of the term “diversity” in France, the historian Pap Ndiaye associates the appointment of individuals “from diverse origins” in politics with a strategy aiming to make these chosen individuals appear as beholden to society and chosen from among the most “*evolved*’, *as was once said during the interwar period with a language arising from the colonial world*” (Sénac, 2012, p. 228). He analyses the “minority paradox” (Scott, 1998; Fassin, 2009b), whereby visible minorities – like women – are doomed to speak out “as”, in order not to be treated “as” (black, Muslims, etc.). The fact that women are over-represented among individuals “of diverse origins” in politics, in particular among ministers, reveals, in his view, that “*indisputably the convergence of sexual and racial criteria is a political calculation aiming both to reduce the place of minorities and women, particularly in the public, political sphere*” (Sénac, 2012, 228). Let us recall the expression “*ministres issus de la diversité*” (“ministers stemming from diversity”) mainly used to describe three women: Fadela Amara, State Secretary for Urban Policy from 2007 to 2010, Rachida Dati, Attorney General, Minister of Justice, from May 2007 to June 2009, and Rama Yade, State Secretary for Foreign Affairs and Human Rights from June 2007 to June 2009, then State Secretary for Sport until November 2010.

In the same study, Yazid Sabeg, a businessman who was appointed as a commissioner for diversity and equal opportunities by the French Prime Minister from December 2008 to July 2012, also looked at the parity-diversity link from the post-colonial viewpoint (Bancel, Lemaire, 2006). In his view, opening up to diversity through the almost exclusive appointment of women sends out “*a bad signal. Because one can lead people to believe that the old frameworks are still in place: this was the situation in the 1980s, with the figure of the immigrant as an attractive, well-adapted young woman, who was supposed to counteract the image of the unemployed, lazy and dangerous immigrant*”. Azouz Begag, the former minister appointed by the Prime Minister to promote equal opportunities (2005-2007), sees in the fact that the three ministers “of diverse

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<sup>6</sup> Geneil, 2007, 94: “*Instrumental rationality consists in reducing social activity to rational processes (as calculable and formal processes), without reflection about the goals orientating the organisation of society.*”

origins” were young women (Guénif-Soulaimas, Macé, 2004),<sup>7</sup> a determination to recognise women who “*rebel against Muslim machismo, which seeks to import Sharia law into France at any price. They are liberated women, embodying a society that has chosen to abduct the Sabine women, to separate the wheat from the chaff. In fact, this policy is a very good way to remove all trace of origins. It is also paradoxical to remove the origins... of individuals from immigrant families*”. For A. Begag, if opinion polls show these women are popular, it is because they embody the kind of individual with immigrant roots that French people like: they demand nothing except “*a piece of the cake*” and are good examples of assimilation. Examining their “subordinate” status (Spivak, 2009), Nacira Guénif Souilamas (a sociologist who coordinated in particular the book *La République mise à nu par son immigration* in 2006) states that choosing “*indigenous women*” reinforces ties of dependence and thus takes part in the inertia of a gendered power, despite the so-called parity laws. What’s more, in her view, if diversity is a “*life-saving term*” for the powers-that-be, it is because it frees them from the need of looking reality in the face.

Houria Bouteldja, the founder and spokeswoman for the “Indigènes de la République”,<sup>8</sup> analyses diversity from the same perspective as “*a term used to respond to two requirements: the demand for the representation of individuals of overseas origin and the need to avoid scaring the white electorate*”. She describes diversity as the “*condom of the Republic*” because, in her view, the political function of this term is to provide an escape from the reality “*of a France that is no longer only a white and Christian France*” and “*the racial and colonial domination embodied by the terms ‘indigenous’ and white*”. Diversity is thus “*cosmetic*” in the sense that by “*promoting a kind of indigenous elite to important positions (the journalist Harry Roselmack, Rachida [Dati] ...), it makes it seem as if the republican, egalitarian system is working correctly*”. Through this euphemism, discrimination is seen as “*a mere malfunction. The structural character of discrimination is hidden away.*”

The instrumentalisation of the combined factors of discrimination can be described as ambivalent positive intersectionality to the extent that, even though it is an asset for recruitment – in the political and economic spheres – it is also an obstacle to gaining equal recognition as a “peer” (Fraser, 2011, p. 8), and not through and for one’s supposed differences. Through the idea of parity of participation, the aim is to defend the fact that “*justice requires social arrangements that permit all (adult) members of society to interact with one another as peers*” (Fraser, 2005, p. 53).

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<sup>7</sup> To add historic depth to this question, it is worth noting that Nafissa Sid Cara (State Secretary to the Prime Minister, in charge of social questions in Algeria and of changes in personal status in Islamic law, from January 1959 to April 1962) was the only woman in the Fifth Republic’s first government.

<sup>8</sup> <http://www.indigenes-republique.fr/statique?idarticle=189>: “*The Indigènes de la République Party carries on from the Appeal of the Indigènes de la République, published in January 2005, and the movement arising from it, the MIR.*”

## Equality as social investment

European enthusiasm for the social approach to resolving the crisis of legitimacy of the welfare state was clearly seen during debates about the best strategy for anticipating and counteracting the social risks arising from the challenges of the 21<sup>st</sup> century. Family and educational policies – from early childhood policy to support for parenting and male-female equality – are presented as a form of political arbitration, enabling economic growth, the fight against the reproduction of inequality and individual flourishing to be reconciled. In the name of a pragmatic alliance between “adjustment to the new economic contexts and the possibility of social progress” (Palier, 2005, p. 128) the struggle against poverty is also given legitimacy by demonstrating that its social benefits are higher than the costs involved. In the current context of a cohabitation between classical capitalism, separating the economic from the social spheres, and an advanced capitalism commodifying all areas of human life, the discussion about the best way to fight inequality is part of a wider debate about promoting economic growth, social and political cohesion and individual well-being.

Its missions and means have been re-examined in the shift from a welfare state providing social insurance (Ewald, 1986), where social policy was defined as restorative and compensatory, to an “active” social state (Reman, Feltesse, 2004), giving responsibility to the beneficiaries of social policies and promoting profitability. Far from being incidental, this justification proceeds from a process of submitting the principle of equality to “market values” (Brown, 2007, p. 50).

Equality is no longer the main principle in the political “lexical ordering”, but a value in which it is legitimate to invest – or not. In this reconciliation of justice and efficiency should we see a happy ending or, on the contrary, an almost perfect murder? The issue raised is whether resorting to the argument for the performance of “*mixité*” (Meynaud, Fortino, Calderon, 2009) contributes to the adaptation and contextualisation of the myth of complementarity of “non-brothers”: naturalised yesterday, it is cultural and commodified today.

To apply a classification developed by the philosopher Jean-Marc Ferry, if equality is a principle in the sense of the expression of the universality of fundamental rights, it is also a republican norm at the heart of the construction of the “political community”. To subject equality to conditions of the performance of diversity for “non-brothers” means it is no longer a liberal principle or a republican norm, but a value associated with an identity, a “community” focus (Ferry, 2009). Equality then becomes an ambivalent value in the sense that its application is conditioned by demonstrating its effective performance, and it is promoted as a “shared value”, defining national identity by promoting an “us” standing apart from a “them”.

## **Conclusion: Parity and diversity or the temptation of a modern capacity-based citizenship**

In this early 21<sup>st</sup> century, the historic notion of capacity-based citizenship (Bouamama, 2008; Wahnich, 1997) is once again being brought into play through the justification of the inclusion of “non-brothers” in the name of the performance of “*mixité*”. This performance has a neoliberal inspiration, since it makes the principle of equality dependent on the market, and is neo-essentialist, since it justifies identity-based allocations by modernising them. “Non-brothers” remain subject to a capacity-based citizenship to the extent that they play a limited role in national and economic elites: the role of an additional, profitable element subject to an eternal learning process. Women candidates for political or professional responsibilities are called on to be trained, irrespective of their academic or professional level, and despite the fact that they generally have more qualifications than men. In the same way, people described as “stemming from diversity” are required to take part in a process of perfecting personal skills, of endlessly relearning the prevailing codes.