Banning the Muslim veil in the name of liberty

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Abstract

This paper argues that the French ‘burqa ban’ of 2010 could be understood as a recent example of what Isaiah Berlin warned against in Two Concepts of Liberty: that positive liberty invites coercion under the banner of liberation, and that it does so by a psychologically predictable pattern. The paper also seeks to answer the question of which type of positive liberty, more precisely, is involved in this heated political issue. Previous research, which has mainly looked at the debate on headscarves, typically assumes that veil bans should be understood as attempts to safeguard the positive liberty of autonomy, governing oneself through reason, a conception of the good rooted in what is typically called “Enlightenment liberalism”. This paper, by contrast, suggests that in the case of full veils, there is another crucial yet hitherto neglected ideal at stake as well: the Romantic ideal of positive liberty, which does not require us to be governed by reason, but to break free from internalized conventions and fears by engaging in passionate self-expression.

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Veil bans in the name of liberty

In recent years, a garment worn by far less than one percent of the population in any European country has given rise to some of the most heated current debates on liberty. This garment is the full Muslim veil, a term this paper will use to denote both the niqab (which covers the full body and face except for a narrow slit for the eyes) and the burqa (which instead covers the eyes with a semi-transparent mesh).1 France, Belgium, Italy and Kosovo, as well as parts of Germany, the Netherlands, Spain and Switzerland have all taken some legal measures against the full Muslim veil. In other countries – such as the UK, Denmark and Sweden – no veil laws have been passed (as of yet), but veil bans have nevertheless been vigorously discussed in the public debate, and according to several polls, a majority of the population in all of these countries favours some form of criminalization of wearing the full veil in public.2

This paper offers a closer look at the debate that pre-ceded the French ‘burqa ban’ from 2010, the very first law against full veils, which started the ongoing trend in Europe. Although this law was formulated in general terms, so as to make it illegal for anyone to the face in public, it was nevertheless clearly never meant to limit just any covering of the face, such as wedding veils or biker helmets, which remain protected by exemptions. The commission report that led to the ban makes very clear that this law was specifically meant to target the full Muslim veil.3

The puzzle that undergirds this paper is that many of the most prominent and self-avowedly liberal intellectuals and philosophers, especially in France but elsewhere in Europe as well, have insisted that there are specifically liberal reasons to ban the full veil.4 Many

1 The exact number of women wearing the full veil in Western Europe is unknown, but all estimates agree that these types of veils are worn by less than 1% of the total population of Muslim women in each respective country. A 2009 study in France concluded that this number was somewhere between 0.015% to 0.08% of the total number of Muslim women in the country. In the same year, a Dutch study found that approximately 0.09% (400 women in total) of the Muslim women in Netherlands wore the full veil. In Denmark, this percentage was 0.15% (150 women in total). In Sweden, this percentage was only 0.03% (100 women in total). In both Sweden and Denmark, finally, approximately half of all women who wear the full veil are converts to Islam, and thus come from a non-Islamic background to begin with.


public intellectuals and opinion makers in France defended the veil ban on the very grounds that it would *liberate* the women whose practice of veiling such a ban would curtail. The goal of this paper is to understand how this conclusion became possible. How could the idea of a ban on full veils – which on the face of it seems to limit both the liberty to practice one’s religion and the liberty to dress as one wishes – nevertheless come to be seen as justified in the very name of liberty itself?

At a first glance, the answer to how this understanding of veil bans came about in France may seem quite straightforward: If it is assumed that all women who wear the full veil are in fact forced to do so – by, say, their male relatives, or religious authorities – then a ban would certainly seem liberate them from a forced practice they would never have chosen for themselves to begin with. Indeed, this latter understanding of veiling was recurrent in the defence of the so-called ‘headscarf ban’ of 2004.\(^5\) Patrick Weil, member of the French *laïcité* commission that ended up recommending this law against conspicuous religious symbols in public schools, repeatedly argued that only if the headscarf were banned would the many girls who were pressured into wearing it by others truly enjoy freedom of conscience.\(^6\)

However, the debate on full veils is different in several important aspects. While the headscarf ban was directed at minors in the context of public schooling, the ban on full veils, by contrast, targets mainly adults, many of which are furthermore converts, and can thus hardly be assumed to have been brainwashed as children into the choice of veiling. Nor is the context for regulating the full veil limited to education and schooling, as with the headscarf; instead, it involves the entire public space. Most importantly, in the debate on full veils, the most vehement supporters of a ban do not seem particularly concerned to track the actual wishes of the veiled women, as did the members of the *laïcité* commission in the case of the headscarf ban. The long report that was written by the Information Committee that recommended the ban on full veils to the National Assembly explicitly recognizes that most women who wear the full veil ‘affirm that they want to do so’. Yet it nevertheless concludes that, as opposed to headscarves among school girls, which was to be seen mainly as ‘an attack on *laïcité*’, the practice of full veiling is ‘a negation of the principle of liberty, because

\(^5\) Wallach-Scott, J. (2007). *The Politics of the Veil*. Princeton: Princeton University Press, 16. Of course, this understanding of veiled women as victims almost per definition is in itself normatively problematic, as has for example been pointed out by Wallach-Scott, among others. I shall leave this aside here, however, since this assumption or the argument resting on it is not my primary concern in this paper.

\(^6\) Joppke, *Veil: Mirror of Identity*, p. 49.
it is a manifestation of oppression.\textsuperscript{7} In other words, in comparison to headscarves, the full veil is both more openly recognized as something women do indeed claim they want to wear, while at the very same time, this choice is nevertheless depicted as a threat to liberty itself, rather than to secularism or the values of the Republic, as was the case with the headscarves.

In order to understand the French defenders of the burqa ban, it thus seems crucial to investigate their conceptions of liberty and indeed oppression. To my knowledge, no such study exists as of yet, however. Partly, this is natural: previous research on the veil debate has until now mainly been preoccupied with headscarves, since the full veil has only recently become a more debated issue. Partly, however, this is also because much of this literature employs a post-colonial or feminist perspective, and thus assumes that it is not in fact liberty of any kind, but order, unity, or secularism, that the most vehement opponents of the veil have been trying to safeguard by banning it. Liberty, in other words, is often treated as little more than a rhetorical cover-up for what is assumed to be the real but much less political correct motivations behind bans on veiling, such as orientalist prejudice, or sheer sexism.\textsuperscript{8}

Nevertheless, it has recently been argued that this assumption may be far too cynical, since the most vehement supporters of veil bans have indeed championed liberty consistently and seemingly sincerely throughout the years. More scholarly attention, it has indeed been concluded, should thus be given to the actual arguments that have been invoked by public intellectuals and opinion makers in favor of the French ban on full veils.\textsuperscript{9}

This paper seeks to understand precisely these aspects of the French debate on full veils, and it does so through the theoretical framework of Isaiah Berlin and his critique of positive liberty. By taking this rather unorthodox approach, the following analysis fills an important

\textsuperscript{7} Gerin & Raoult, Document no.2262: Rapport d’information au nom de la mission d’information sur la pratique du port du voile integral sur le territoire nationale (2262), 93, 87. All the quotes from this document in this paper were translated by the author.

\textsuperscript{8} Cf. Liz Fekete, "Enlightened fundamentalism? Immigration, feminism and the Right", Race & Class 48, 2 (2006); Winter, Bronwyn, Hijab and the republic: Uncovering the French headscarf debate (Syracuse: Syracuse University Press, 2008), ch.6; Alia Al-Saji, “The racialization of Muslim veils: A philosophical analysis”, Philosophy and Social Criticism 36, 8 (2010): 875-902. A notable exception here is Cécile Laborde, who argues that the veil has become such an issue in France because it is understood to clash with the republican notion of freedom as non-domination (Critical Republicanism: The Hijab Controversy and Political Philosophy (Oxford: Oxford University Press, 2008). Yet, Laborde only considers the ban on headscarves on minors in public schools, not the more recent and substantially different issue of banning full veils on adult women in the public sphere. Nor does Laborde mention Berlin or his warnings against the positive liberty of self-mastery; her concern is instead with republican freedom as non-domination, which is considerably different. For an insightful account of these different sides of positive liberty, see David Miller, "Introduction", in The Liberty Reader, ed. David Miller (Edinburgh: Edinburgh University Press, 2006), 10.

\textsuperscript{9} Baehr & Gordon, From the headscarf to the burqa: the role of social theorists in shaping laws against the veil, 253, 255.
gap in our knowledge of veil bans and especially those that target the full Muslim veil. In combining insights from political theory with empirical studies, this paper also heeds the more general call for empirically and normatively oriented research to enrich each other, and especially so on the topic of immigration and integration, where this has only rarely been the case. More precisely, I will build on a recent re-interpretation of Berlin’s critique of positive liberty as more psychological than previous research has recognized. While I have developed this novel reading of Berlin more elsewhere, in this paper, by contrast, my main goal is not to contribute to the literature on Berlin, but to use this reading of him in order to contribute to our understanding of the debate on full veils in France. As we will see, his framework namely helps uncover several crucial and yet hitherto neglected aspects about the defenders of this veil ban.

The paper proceeds as follows. In the next section, I first set the stage by recapitulating my interpretation of Berlin’s psychological case against positive liberty. Armed with Berlin’s theoretical framework, we will then return to the empirical case of the French debate on full veils. This exercise reveals that liberty is not in fact a mere rhetorical front hiding some darker ideal, such as unity or order, in these debates; instead, liberty is the very reason that many opinion makers defend the veil ban, but their notion of liberty is of the positive kind. We will then turn to consider which version of positive liberty, more precisely, that we are dealing with in this case. While previous research tends to assume that it is the Enlightenment ideal of liberty as autonomy that drives the most vehement defenders of veil bans, my analysis will show that in the case of the full veil, many of these opinion makers also espouse the conflicting romantic ideal of liberty as passionate self-expression.

**Berlin's inversion thesis**

In his seminal essay *Two Concepts of Liberty* (*TCL*), first delivered as a lecture in 1958, Isaiah Berlin argued that the champions of “positive” liberty of self-mastery tend to disregard the “negative” liberty of being unconstrained by others. To this, it has been objected that the

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12 This section is taken from Gustavsson, The Psychological dangers of Positive Liberty: Reconstructing a Neglected Undercurrent in Isaiah Berlin’s “Two Concepts of Liberty”, 268 ff.

liberal versions of positive liberty held for example by Spinoza, Kant and T.H. Green do not in fact logically entail the totalitarian conclusions so feared by Berlin, and thus his concerns about positive liberty were in fact greatly exaggerated. Other scholars have in turn noted that Berlin should rather be understood as making a historical observation concerning the way in which authoritarian regimes, and most importantly the Soviet Union, have de facto used the positive ideal of liberty as an excuse for tyranny. Yet, although this latter reading certainly seems to rescue Berlin from the accusation of committing a logical fallacy, it instead risks making his warnings obsolete, “bound up with the ideological war of the fifties, attacking an enemy that is no longer recognizable.”

In a recent reconstruction of Berlin’s critique of positive liberty, however, I have revealed a third, neglected side of Two Concepts of Liberty that is neither logical or historical but best described as psychological, and indeed speaks more directly than the other two to a highly relevant contemporary problem: the danger of repression that comes from liberalism itself. This is because Berlin’s target, I argue, was not coercion as such, nor even paternalism – but the specific type of coercion that comes disguised as liberation. This is why he states that “it is one thing to say that I may be coerced for my own good, which I am too blind to see: this may, on occasion, be for my benefit; indeed it may enlarge the scope of my liberty”, but that “it is another to say that if it is my good, then I am not being coerced, for I have willed it, whether I know this or not, and am free (or ‘truly’ free) even while my poor earthly body and foolish mind bitterly reject it, and struggle with the greatest desperation against those who seek, however benevolently, to impose it.”. Only the latter stance namely invites the coercer

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to think he is “in a position to ignore the actual wishes of men or societies” on behalf of their “‘true,’ albeit often submerged and inarticulate, self.”

The first aspect of my reading of Berlin that differs from that of previous research is thus that I claim that his target is not coercion in general, nor even paternalistic coercion in particular, but specifically the “monstrous impersonation” of saying that when we do force others to do what we think is right, we are in fact acting in line with their real wishes and therefore not really coercing them at all. Berlin thought such a blanket denunciation denies not only the potential truth of the values we dismiss, but also the dignity of the person who holds them. It is not only more “true,” he declares, but also more “humane” to acknowledge that “men choose as they do because their life and thought are determined by fundamental categories and concepts that are, at any rate over large stretches of time and space, and whatever their ultimate origins, a part of their being and thought and sense of their own identity; part of what makes them human.” Quite independently, then, of whether or not a person’s ideals were his own to begin with, Berlin seems to think that once they have become a part of his own sense of self we must at least recognize them as his. This does not mean we should not condemn them, in some cases even prohibit him from pursuing them. Yet Berlin insists that we may not impersonate him by completely dismissing them as not really his at all. This is why the inversion of liberty at the heart of TCL, and of this essay, is not coercion, nor even paternalistic coercion, as such, but the specific kind of coercion that comes disguised as liberation. This view of coercion, namely, allows the coercer to completely dismiss the self-understanding of the very persons he presumes to liberate.

The second aspect of my reading of Berlin that is new is that this risk went beyond both any logical argument regarding what positive liberty entails, and any historical observation regarding its actual association with coercion. In my reading, Berlin namely also put forward a third and different type of argument, about an empirical, more specifically a psychological, connection: he wanted to warn against a movement from positive liberty that is likely to take place through certain mental mechanisms. His inversion thesis, I argue, amounts to the empirical claim that, if a person already believes in monism, i.e. that her own ordering of

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18 TCL, 180-81.
19 TCL, 180.
20 TCL, 216-17.
21 Berlin does not mean that men’s “actual wishes” must be always encouraged, or even tolerated, only that they should be acknowledged as theirs. In fact, he clearly states that the liberty to choose to live as one desires “must be weighed against the claims of many other values.” (TCL, 215)
values is the only rational – and many, according to Berlin, harbor this belief – then cherishing positive liberty is likely to make her believe that when coercing others in line with her values she is in fact just liberating them, and she can thus safely believe herself to be “in a position to ignore the actual wishes” of the people whom she is coercing.22 This risk pertains especially to liberals, who are likely to be already alert, although not always opposed, to coercion in general, and paternalistic coercion in particular, but less suspicious of coercion that sneaks in under the cloak of liberation.

The third and final aspect of my reading of Berlin that is relevant here is that he is not only concerned with positive liberty in the sense of striving to be internally free from ignorance or neuroses and be governed by reason, but also with an ideal of internal freedom that is in many ways the opposite: fighting one’s inner fears and internalized convention in order to be ruled by one’s authentic passions. In fact, in Two Concepts of Freedom: Romantic and Liberal, the precursor of TCL, Berlin originally categorized positive liberty as a romantic ideal, rather than one connected to Enlightenment autonomy; and thus directed against, not in favour of, “too much critical reflection.”23 In this essay, Berlin explicitly warns us about the romantic notion of liberation, perhaps most vividly expressed by Fichte, which has little to do with being rational or contemplative, but all the more with “ruthless self-realisation of whatever burns within one.”24

At first, this may of course seem like a negative ideal of liberty – being unrestrained by others in asserting oneself. For Berlin, however, this is a positive ideal of liberty because it involves a struggle against internal enemies. If I am convinced that others fail to achieve this true liberty because they are held back by their own fears, or their narrow every-day concerns, he warns us, then there is always the risk that I take it upon myself to help liberate them from themselves by going against their explicit wishes; to “lift others to a level beyond any which they could have reached by their own efforts, even if this can be achieved only at the cost of the torment or death of multitudes.”25 If I already assume that they are at present too confused to be swayed by rational arguments and must instead be forced to see the truth, then I am now also likely to conclude that I am not in fact coercing them in any meaningful sense. Surely, their philistine concerns that I now obstruct are only “the bonds of dreary

22 TCL, 180.
24 Ibid. 197.
everyday concerns,” from which their true selves must first be liberated before they can reach
their full potential.26

In *TCL* as well, Berlin thus cautions not only against the positive liberty of the
Enlightenment *philosophes*, but also against the romantic assumption that “I must do for men
(or with them) what they cannot do for themselves, and I cannot ask their permission or
consent, because they are in no condition to know what is best for them; indeed, what they
will permit and accept may mean a life of contemptible mediocrity, or perhaps even their ruin
and suicide.” For whereas some put forward the value of reason, “romantic authoritarians
may worship other values, and see in their establishment by force the only path to true
freedom.”27 Of course, Romanticism is typically connected to collectivism and
communitarianism. However, there was also a strongly liberal and individualistic strand of
eyearly German Romanticism, and it is these ideals that Berlin is most typically referring to
when warning us against romantic notions of positive liberty.28

In sum, if I am already a self-righteous monist who believes that her own ordering of
values is in fact valid for her opponents who are just too blind to see it, then the added
conviction that they are in fact un-free because of inner obstacles – deaf to the voice of
universal reason, on the Enlightenment version, or blind to their unique inner spark, on the
romantic one – becomes dangerous according to Berlin. For it now becomes all too easy – not
logically justifiable, but psychologically tempting – for me to conclude that I should overrule
their wishes in order to help in their very liberation; suddenly, their liberty no longer requires
me to try and persuade them as they are now, but on the contrary to ignore their current
wishes for reasons that they will only later come to understand for themselves.

**Returning to the French debate on the full veil**29

In short, I have argued that Berlin should be understood as a) specifically concerned with
coercion as liberation, b) suggesting that the link between positive liberty and such coercion
is psychological, and c) warning us just as much against Romantic ideals of positive liberty as
the Enlightenment ideal of autonomy. How, then, does this help us in understanding the
empirical case of the French ban on full Muslim veils?

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27 *TCL*, 197.
also further discussed in Gustavsson, G. (2014) Romantic Liberalism: An Alternative Perspective on the Muhammad
29 A great part of this section as well is from Gustavsson, The Psychological dangers of Positive Liberty:
First of all, if Berlin’s main concern was indeed with coercion disguised as liberation, with the denial of the self-understanding of the coerced, as they are here and now, that this implies, then translated to the veil debate, this prompts us to look beyond the arguments for the ban itself, and instead examine the reasoning of those who understood the ban as an act of liberation even of those women who claimed they wanted to wear the veil. A point in case, I would argue, is the investigation of the “Information Committee” that recommended the ban on full veils in their long report to the National Assembly in 2010. The voices or arguments of the women who wear the full veil are entirely absent from the 658 page report. The commission seems to have been convinced by the advice of philosopher Abdennour Bidar, who in his hearing underlined that the discussion regarding the veil ban should in fact steer entirely clear of the ‘swamp of individual motivations’, i.e. the reason that the women who want to wear the veil have for doing so. Instead, the arguments for the ban should focus only on the ‘objective perception’ of the veil from the outside, i.e. by the un-veiled majority.\footnote{Gerin & Raoult, 2010, pp. 286, also see 291.} And the conclusion at which the report arrives – as we have already seen – is that the full veil, in contrast to headscarves, is “more than an attack on laïcité”; it is “a negation of the principle of liberty, because it is a manifestation of oppression.”\footnote{Ibid., 87.}

Now, one of the most frequently cited hearings in the report, that of Abdennour Bidar, a philosopher and specialist in Islam, suggests positive liberty may have something to do with this conclusion. Bidar presented the full veil as a sign of many underlying problems, above all of which, however, he put the “formalistic” tendency of Islam to repress the expression of individual freedom. This freedom of the veiled women, he argued, needed to be safe-guarded by a ban on full veils.\footnote{Ibid. 287-88, 291. He also raised other concerns, for example that the unveiled majority needed protection from the ‘symbolic violence’ inherent in the full veil. Ibid.286.} Yet, at the same time, Bidar also advised the commission to completely avoid the “subjective perception” held by the veiled women of why they want to veil, and instead to focus exclusively on the “objective perception” of the non-veiled majority – which, incidentally, was also his own.\footnote{Ibid. 291.} His main reason for arguing that “the swamp of individual motivations” must be avoided altogether was that we cannot trust the veiled women to know what is in fact their own free choice: \footnote{Ibid. 286.}

\textit{In reality, that which is perceived by the individual as liberty can be nothing but the interiorisation of pressure. It would be suitable to interrogate a psychologist or...}
psychoanalyst on this subject. A norm that comes to be held by the majority in the social environment can undergo a process of culpabilisation in the individual’s mind. The individual believes to have chosen freely, but if one traces the genealogy of this choice, one realizes that an external pressure has been able to give rise to the very idea that the norm is there at all. One can thus, paradoxically, have to do with alienated subjectivities or liberties.35

The women may thus be externally free, yet internally imprisoned by norms that are not truly theirs, although they themselves certainly think so:

More precisely, one can, from a subjective point of view, call a behavior free that is in fact not at all free. It is the same for an adolescent integrated in a group: even if he can be under the illusion of acting as his own master, one can sometimes see, with a little distance, that the self-affirmation and the pressure of the group get tangled up in his mind.36

Berlin, I have argued, was suspicious of the monistic assumption that our own ideals are the only objectively rational ones, combined with a commitment to liberty from internal rather than external constraints, and liberty in the process of forming one’s will rather than in acting upon it. Bidar’s reasoning seems to exemplify this very pattern rather well. Not only does he reveal a rather self-righteous monism by assuming that his own view of the veil is the “objective perception,” while that of the veiled women is by definition “subjective.” Considering how concerned he is with constraints internal to the self, and the activity of mastering one’s will, he is also a clear proponent of positive liberty. He presents the negative liberty of being able to act as one’s empirical self wishes as not really freedom after all, but “subjectivity” – and “all subjectivity is not sound in spirit.”37

Bidar’s reasoning thus seems to exemplify how, through steps that are not logically compelling but psychologically understandable, positive liberty does indeed lead to the disguise of coercion as liberation. Because he seems to presume the women who wish to wear the veil cannot be made to see the truth unless they are forced to distance themselves from their group, and because his ideal of freedom is positive rather than negative, he completely dismisses and indeed actively urges us to disregard the “subjective perception” of the very persons whose liberty he sets out to defend by coercion.

35 Ibid. 291.
36 Ibid.
37 Ibid.
Finally, armed with Berlin’s framework, we can also recognize that the type of positive liberty that a veil ban is meant to safeguard seems to be more closely connected to Romanticism than to the Enlightenment. In his overview of what makes the veil problematic, Bidar namely keeps returning to the veil as a mark of unbearable uniformity, which stifles the expression of individual uniqueness. Bidar claims that the full veil is but ‘an exaggeration’ of an underlying problem in Islam: the ‘suffocating’ tendency to sacrifice internal life to external uniformity. Indeed, the veil is a sign of the crushing of individual differences, which ‘in its most extreme forms could be seen as a sort of mill grinding down the individual personality, imprisoning the individual in a homogenous, collective behaviour’ (Gerin & Raoult, 2010, pp. 287-288). Nowhere, by contrast, does Bidar speak of the veil as a case of heteronomy, of failing to be governed by reason, and instead being driven by one’s instincts or passions. This, we shall now see, gives us reason to question the predominant picture in previous research, according to which the defenders of veil bans, especially in France, have mainly vindicated the Enlightenment ideal of autonomy as rational self-reflection.

**A case of defending the Enlightenment liberty of autonomy?**

Although there is not, as of yet at least, much international research on the French debate regarding the burqa ban of 2010, there is quite a large scholarly literature on the French debate regarding Muslim headscarves. The explanations for the headscarf ban of 2004 range from secularism, post-colonial arrogance, the quest to impose unity over cultural difference, and the Western self-image as a beacon of female emancipation, to specifically French traditions of *laïcité*, republicanism or even sexual openness. Yet, although they differ internally, they are nevertheless strikingly similar in one crucial aspect: they all connect the ideals that the supporters of a veil ban were trying to safeguard to the values of the Enlightenment.

Employing a secularist lense to the debate, Cécile Laborde for example links French opposition against the veil to Kantian spiritualism and ‘the Enlightenment search for natural religion’. Resistance to the veil, she argues, is seen as rooted in the ‘Enlightenment’ project

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38 This section is partly based on a forthcoming chapter, *Veils, Nudity, and Individuality: Romantic ideals among self-professed ‘enlightenment liberals’ in France*, in an edited volume of the project. Note to self: shorten!
of trying to safeguard ‘autonomy’ and ‘reason’. Eoin Daly similarly suggests that the contemporary veil debate is an example of the old French assumption that religion hampers ‘the advance of reason and enlightenment amongst citizens’.

Other scholars propose a more postcolonial perspective, yet Enlightenment values retain their crucial part in their stories as well. Liz Fekete for example argues that forcing girls to unveil, and restricting their access to education and the public space if they did not, as in the French case, is an expression of a fundamentalist commitment to the Enlightenment value of ‘personal autonomy’. Veil bans, she suggests, are defended as an opportunity for immigrants to ‘cast off their “backward culture” and ‘assimilate into the modern, secular values of the Enlightenment’. Along similar lines, Monica Mookherjee reads the stern opposition to the veil on the part of Elisabeth Badinter, the doyenne of French feminism, as rooted in her ‘Millian view that a person cannot freely submit to slavery, nor prefer a slothful life to one of Socratic questioning’. In other words, Badinter’s defence of veil bans is purportedly rooted in the Enlightenment project of instilling reason and reflection among supposedly lazy and uncivilized Muslims. Joan Wallach-Scott, finally, has also argued that the headscarf ban is to be seen as yet another attempt at the French civilizing mission, rooted in colonial ideas of Arabs as ‘excessively and unacceptably sexual’, even ‘perverse’, and thus in need of containment and control. The French hostility to veiling, she claims, must thus be understood as part of the old idea that by lifting the veil of Muslim women, the French liberators in fact ‘stripped them, as it were, of the protective power of superstition and so exposed them to the “light”’.

The Enlightenment also returns, albeit in a slightly different manner, in Wallach-Scott’s discussion of secularism as another important factor behind the French antagonism to the veil. Some supporters of the headscarf ban, she argues, were driven by their concern that the French school, once a bastion of undivided citizenry and shared enlightened values (the French motto being ‘the nation, one and indivisible’), had been tragically weakened by the individualistic currents of 1968, in the aftermath of which there was an increasing emphasis on individuals expressing their differences in clothing and hairstyles. In banning the veil, she...
suggests, some elderly statesmen were thus trying to achieve a rebirth of the undivided school where the self that was cultivated was not that of particular persons but of universal citizens, united by their equal commitment to impersonal reason. In sum, Wallach-Scott invites us to understand opposition to the veil as opposition to yet another symbol of excessive demands for self-expression, individuality and the recognition of one’s particularity, akin to long hippie hair, punk piercings, and rebellious miniskirts.44

Admittedly, the above accounts all mention Enlightenment values in different ways. Yet, in one way or another, they all paint a picture in which the supporters of the veil ban side with values such as unity, autonomy, reason, self-restraint and self-discipline, against the excessive expression of difference, individuality, and divisive private commitments, as well as the lack of sexual, emotional and religious self-discipline that they purportedly took the veil to represent.

In doing so, however, I believe we miss something crucial in the debate, namely that it was in fact the supporters of the veil, rather than its critics, who invoked the value of self-restraint and self-discipline, portraying the veil as ‘a sign of humility’ and ‘modesty’.45 This, moreover, seems to have been well known to the critics of the ban, such as the aforementioned Elisabeth Badinter, who indeed vigorously criticised the veil for precisely this reason, i.e. because she took it to be a symbol of harmful demands for modesty and self-restraint. As is obvious from the following quote, Badinter in fact explicitly put the veil on the opposite side of typical Western symbols of teenage rebellion:

*The veil, it is the symbol of the oppression of sex. Putting on torn jeans, wearing yellow, green, or blue hair, this is an act of freedom with regard to the social conventions. Putting a veil on the head, this is an act of submission.*46

Rather than portraying a veil ban as an attempt to instil self-discipline over excessive sexuality, many of its most forceful defenders, such as psychoanalyst Elisabeth Roudinesco, also built a great deal of their case against the veil on the view that the veil symbolises an unnatural and illegitimate attempt to curb sexuality.47 The veil, as political scientists and feminist Janine Mossuz-Lavau for example made clear in an article in *Le Monde* that appeared on the very day of the headscarf ban, was believed to deprive women of their

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45 Wallach-Scott, 2007, p. 144 (as also pointed out in ch 5 by Laborde 2008).
rightful sexual liberation. Many other French intellectuals, as we will soon see in more detail, also opposed the veil because they saw it as stifling individuality, rather than a symbol of the excessive expression of it; while others similarly condemned it not because it signalled too much difference, self-expression or emotion but because it signalled the suppression of these very things. In what follows, we shall see that one of the explanations for this might be that Abdennour Bidar was far from alone in invoking a Romantic rather than an Enlightenment ideal of positive liberty in defence of the ban on full veils.

**The neglected role of Romantic liberty in the French debate**

Consider Marianne, the icon of the French Republic, who is typically brought up as the opposite of a veiled woman. First and foremost, Marianne of course epitomizes the free and equal citoyen or citoyenne, who on the republican understanding is only free to the extent she actively engages in self-governance in the public realm – as opposed to privately and unhindered by the state pursuing her own conception of the good, the type of freedom that liberals are typically more concerned with. In short, Marianne symbolizes the republican citizen who refuses to be governed by any other laws than those of her own making, and who actively engages in public life by leaving behind her own particular religious or cultural allegiances. On this view, citizenship is about identifying first and foremost with the Republic, as symbolized by the anti-monarchic symbols of the French revolution that Marianne is typically represented as wearing: the Phrygian cap and the tricolour flag.

Now, I do not wish to contend that this republican – and, one might add, secularist – understanding of Marianne and free citizenship was one of the major reasons for the French resistance to headscarves in public schools, as has often been pointed out in previous research on the French debate on veils. I would, however, want to suggest that in the more recent debate on full veils, by contrast, Marianne’s role also goes beyond that of symbolizing republican liberty. In the famous painting of the July Revolution of 1830 by Eugène Delacroix (*Liberty Leading the People*), we might recall, Marianne takes centre stage on the barricades, revealing not only her face but also her naked chest while fighting for what she believes in. Among those who invoked Marianne as the opposite of women wearing full veils, this very aspect of her, her semi-nudity, also appeared to be crucial. As one of the members of the commission behind the report declared:

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49 Bruckner, 2010b.

50 Laborde 2008, 112.

51 Cf. Laborde 2008 ch.5 & Wallach-Scott 2007, ch.3 and 4.
Marianne, the symbol of the Republic, most often does not cover her chest with anything. The opposite would mean a deprivation of liberty.\textsuperscript{52}

But why, we might ask, would liberty require us to be uncovered? How are we to understand the recurrent importance that defenders of the ban on full veils seemed to attach to the nudity and unabashed self-revelation of Marianne? Surely this aspect of Marianne has little to do with the republican ideal of liberty as active self-legislation. Feminist scholars have instead suggested that part of the French ideal of a public space relies on the visibility of a sexualized female body.\textsuperscript{53} While this may very well be true, I believe such a literal reading of the role of nudity in the veil debate misses something crucial, namely that nudity also has a deep symbolic meaning that in many ways represents the very opposite of sexualisation.

Nudity in children, or for Adam and Eve, is, after all, the ultimate sign of sincerity and honesty. In the era of early Romanticism in the 1790’s – which, of course, coincided with the French Revolution of 1789 – wearing thin or even wet white garments that would give the illusion of nudity also became a crucial fashion because it represented the individual stripped free of all pretence and hypocrisy, expressing nothing but her true convictions, and thus in a manner desexualized.\textsuperscript{54} As Berlin noted, one of the stormiest early Romantics, Friedrich Schlegel, describes the ultimate symbol of freedom in his shockingly unconventional novel Lucinde as that of a small baby, who is “naked and unrestrained by convention”. “Freedom, the capacity to throw one’s legs in the air, to do anything one wishes, that is the last privilege that we have in this fearful world, this awful causal treadmill when nature presses upon us with such fearful savagery”, exclaims Schlegel’s hero in Lucinde.\textsuperscript{55} From a romantic perspective, nudity is thus not really about what is literally bare. It also functions as a symbol for the ideal of sincere self-disclosure, of fearlessly showing one’s true inner self, one’s authentic emotions and convictions, of resisting nature and convention within oneself, as well as the impulse to hide oneself from others under the veneer of civilized society. To be naked is to liberate one’s inner child, and children, as as Lionel Trilling aptly put it, are ‘the very avatars of sincerity’.\textsuperscript{56}

\textsuperscript{52} Gerin & Raoult, 2010, p. 418, also see p.345.
\textsuperscript{53} Cf. Wallch-Scott 2007, ch.5.
Indeed, if we look at the debate on veiling in France with this romantic understanding of nudity and sincerity in mind, I believe we can in fact detect several instances of the full veil being opposed not because it would represent heteronomy, failing to be governed by reason, but because it seems to stand in the way of unabashedly expressing one’s unique personality in front of others. In the conclusions of the report that led to the ban on full veils in public in 2010, this theme of self-expression appears rather central. The report quotes its hearing with Abdelwahab Meddeb, public intellectual, poet and Sufi inspired specialist in Islam, who argued that the full veil ‘is a crime that assassinates the face, depriving it of its infinite openness towards the other’. The commissioners also return here to philosopher Emmanuel Lévinas and his theory of how ‘the face of the other speaks to me’, themes initially raised in the hearing with Abdennour Bidar which was previously analyzed.\textsuperscript{57}

The concluding report in fact attributes such importance to Lévinas and his theory of the face that it does not only quote Bidar’s account of him, but also adds to it by citing and analysing Lévinas directly. The commission interprets the latter as saying that seeing the face of the other is the only thing which makes us open to his needs as a human being: We feel responsible for him only when we see ‘the essential nudity of his face exposed to all violence’. From this, the commission draws the important conclusion that ‘to not see more than the eyes of a woman, the rest of her face being masked – and sometimes even the eyes being veiled – is to be condemned to address oneself to this human person as an object’. The face, after all, is the literal ‘mirror of the soul’\textsuperscript{58}. This section is concluded with the following sentence:

\textit{The person constrained to hiding his face thus loses all his specificity and in a certain manner part of his humanity.} \textsuperscript{59}

In another passage from the final conclusions of the commissioners themselves, the 2010 report also states that the veil is ‘a veritable denial of the person with regards to that which makes her the most unique’. The argument for this is taken from yet another hearing, this time with Marie Perret, a member of a secularist organisation, who is quoted saying that the full veil ‘does not only have the effect of robbing its wearer of her individual identity, but also of rendering her indistinguishable’. As this quote goes on to suggest, the person who wears such a veil is taken to be saying ‘I am no-body’. \textsuperscript{60}

\textsuperscript{57} Gerin & Raoult, 2010, p. 116-7.
\textsuperscript{58} Gerin & Raoult, 2010, p. 116.
\textsuperscript{59} Gerin & Raoult, 2010, p. 118.
\textsuperscript{60} Gerin & Raoult, 2010, p. 98.
In other words, to the extent that the veil denies the expression of a person’s face, it is assumed to violate not only the rights of the wearer to show herself to others, but also, thereby, it undermines her entire personhood, and hinders her from living a humane life. Without showing oneself as we truly are to one another, it is more or less implicitly assumed, we cannot lead a dignified life. Now, it could of course be objected that by wearing a full veil a person does indeed show herself to others, since she could be understood as deliberately showing off her identity as a devout Muslim, or, alternatively, as a proud bearer of a French colonial heritage. But the self-disclosure demanded by Bidar and other opponents of the veil seems to exclude such demonstrations. What they demand is something more fundamental, more savage in a way. We must show our own unique “specificity” to others; i.e. not what we believe in or who we choose to identify as in society, but who we are at our core: that which is assumed to make us into unique persons, our inner spark, if you will. This, moreover, in that which makes us different from one another, is where our humanity is supposed to be found.

Similar ideals appear in the arguments brought up by Pascal Bruckner, **nouveau philosophe** and one of the most vehement self-proclaimed supporters of Enlightenment liberalism.61 This is how Bruckner describes the main problem with the full veil:

_The problem for society is that a person who goes into the streets hidden in this way becomes invisible and erased, denied individual singularity. The Carmelite nun, cloistered in her convent, must present her face uncovered when she appears in civil society. But not the Muslim woman who covers herself. She is nothing, merely a shadow that does not have the right to a minimal social existence, and while walking in the free air remains imprisoned behind her great wall of clothing. This is an invitation for a population of ghosts to wander French streets; no-legged zombies, like so many extras in horror films; a collection of clones denied the most fundamental right of existence—the right of recognition._62

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62 Bruckner, P. (2010b, Nov-Dec 2010). Unveiled: A Case for France’s Burqa Ban. *World Affairs, 173*, 61-65. This and the following quotes from Bruckner are all translated by the author. Moreover, note that my point is not to deny that Bruckner also claims that the burka is problematic for many additional reasons: he also points out that it marks those who do not wear it as indecent, and it is a power demonstration of Wahhabist and Salafist sects. It is also an affront to equality between the sexes, Bruckner believes. Yet, the quoted passage represents his most forceful point in this text.
The idea of a disembodied liberal individual whose dignity comes from the universal reason that she shares with all humanity, and that she is able to impose upon herself independently of her particular allegiances appears strikingly absent in this reasoning. Instead, the most important victim of the Muslim veil is presented as a self in considerably romantic terms, a self that can only be called human – or indeed be said to exist at all – if it is shown to and recognised in its uniqueness by another. Bruckner’s account of the veil amounts to no less than the claim that, unless we show our faces to our fellow human beings, we cannot become proper human beings ourselves; we remain ‘nothing’, mere shadows. The ultimate horror is to be a clone, a copy, a person deprived of ‘individual singularity’.

All this suggests something rather important: The humanity that the veil supposedly denies and that banning it is meant to safeguard seems rather far from humanity in the Kantian sense, i.e. the potential for autonomous choice that we all share and that makes us in one sense universally the same – not as we are here and now but by virtue of our transcendental selves. Instead, humanity in these accounts seems to be more or less equated to that internal spark which makes each of us *unique*, and which our current, bodily self is able or even obliged to show through facial and body language. This, I would suggest, is a conspicuously romantic view of human dignity, and at odds with the view typically connected to the Enlightenment.63

**Concluding discussion: what makes the full veil different (unfinished)**

This paper has tried to show that using Isaiah Berlin’s critique of positive liberty as a theoretical framework for understanding the debate on the burqa ban in France yields a clearer picture of the ideals at stake for those opinion makers who defended the ban in the very name of liberty. More specifically, this results in two major insights, which have hitherto been neglected in the literature on veiling.

First, liberty in these debates, I have argued, is not, as previous research has tended to assume, a mere rhetorical cover-up for murkier ideals like order or unity. The positive ideal of liberty that seems to be held by many of the most vehement opponents of the full veil, I

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63 I am of course well aware that neither the Enlightenment nor Romanticism are unitary or coherent traditions, and that many would even prefer to use these concepts in the plural. I do not have room to develop this discussion more here, but I do so in a book I am currently writing, under the working title of *Romantic Liberalism on the March – Muslim Veils, Muhammad Cartoons, and the Romantic Strain in Enlightenment Liberalism*. For a nice overview of these differences between what is typically identified as an Enlightenment view of dignity, and a more Romantic understanding of this concept, cf. Hinchman, L. (1996). Autonomy, Individuality, and Self-Determination. In J. Schmidt (Ed.), *What is Enlightenment? Eighteenth-Century Answers and Twentieth-Century Questions* (pp. 499-516). Berkeley: University of California Press.
have argued, plays a crucial empirical part in explaining why these opinion makers and intellectuals end up in the conclusion that the veil ban is justified in the very name of liberty. This is not to say that positive liberty philosophically entails the conclusion that women who claim they want to wear the veil are indeed liberated by a ban that criminalizes their veils – instead, my point is empirical: in the case of the French debate on full veils, positive liberty seems to have de facto invited such a conclusion, quite independently of whether or not this conclusion is logically justified. The full veil debate in France thus exemplifies the psychological link between positive liberty and the inversion of liberty into coercion that I have argued Berlin tried to warn us against in Two Concepts of Liberty.64

Secondly, armed with the insight that Berlin’s warnings refer not only to Enlightenment autonomy, but also to Romantic ideals of positive liberty as dedicated self-expression against convention, we have also been able to perceive something entirely new about the debate on full veils. The defenders of the veil ban, I have argued, repeatedly suggest that the veil clashes with romantic self-expression. In contrast to the headscarf, the full veil, it seems, thus actualizes not only ideals connected to the Enlightenment and republicanism: ideals of self-governance, and the unencumbered individual guided by reason. The debate on full veils cannot be understood if we do not also recognize that the defenders of veil bans repeatedly invoke distinctly romantic ideals regarding bold self-expression, sincerity and authenticity, many of which would appear to stand in stark contrast to the ideas of the Enlightenment.65

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