

Religious Freedom in a Secular Republic: How French Legislation and Rhetoric Against the Veil  
Disproportionately Impacts Muslim Women in France

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In the last century, France has experienced various waves of change in national identity and diversity within the country, including the influx of large populations of Muslims from Algeria and surrounding countries. With an estimated five million French Muslims in the country, there is an expectation by the government that all citizens should be able to experience the freedom that the French state was originally founded on (Iqbal, 2015). However, in recent years the issue of religious freedom and restrictive bans targeting French Muslim women who partake in wearing the hijab, niqab, and burqa have become prevalent as the issue has spurred violent protests and political debate. As a secular state, the French Republic stresses the separation of church and state, and the responsibility of citizens to practice religion in private. However, through decades of ambiguous legislation and targeted political rhetoric, it is clear that there is a specific attempt to control Islamic practices and expressions of faith within France. Bans targeting the hijab consists of decades of exclusionary policy that attacks both religious freedom and body sovereignty in an attempt to control the visibility of Islam and Muslim communities within the country.

## **Methods**

To ensure that this paper employed ethical research methods and included a well-rounded perspective on the issue, I have utilized various peer-reviewed articles and books, as well as news reports that provide various viewpoints and updated context to the academic sources. In addition, I did a deep-dive into archival research on the decades of legislation that the French Senate and National Assembly approved relating to the hijab, niqab, and burqa bans. I also analyzed news journals to gain a better idea of the political rhetoric that was being used in

regards to this debate, as I found a difference between the actual legislation language and diction that politicians were verbalizing. These methods served as the foundation of extensive research into the motivations of the exclusionary policy and rhetoric that attempts to control religious freedom and body sovereignty, as well as Muslim women's perspectives and narratives within the country via the banning of the veil.

### **History of Colonization**

French colonization of Algeria is considered the source of many of the political and social tensions that exist within France today. Controlling the region from 1830-1962, France's occupation of Algeria represents one of the longest periods of colonization in the world (Bonnot et. al. 2016). While France also occupied other North African regions including Tunisia and Morocco, Algeria was unique as the only colony settlement that was recognized as a French province, making it an extension of the French mainland. As the population of European settlers grew, discriminatory policies were put in place to keep a clear separation between native Algerians and mainland French citizens. The Code de L'Indigenat, mandated in 1881, established a code which denied native Algerian Muslims French citizenship status, and allowed violent tactics to keep natives in submission of the colonial government (Bonnot et. al. 2016). French colonizers attempted to control Algerian Muslims by using propaganda techniques to directly insinuate that veiled Muslim women hold an inferior status and are unable to make their own choices, while simultaneously making aggressive attempts to unveil them regardless of Muslim women's preference to conform to Western culture (Fanon, 2003). This discrimination and mistreatment exploded when the war of independence broke out in 1954, sparking an eight-year conflict that resulted in millions of casualties and birthed cultural tensions still felt today.

The resulting warfare that occurred in Algeria, often referred to as the “War Without a Name” in France, began with independence fighters known as the National Liberation Front (FLN) organizing Algerian rebellion from France (Al Jazeera, 2010). The independence movement quickly turned violent, and France employed armed forces to engage in combat against the freedom fighters. Throughout the conflict, France refused to acknowledge the warfare occurring in the province, attempting to silence international pleas from the Algerian forces and cover up use of violent attacks and severe torture tactics (Al Jazeera, 2010). Once publicly known, this brutality inflicted on Algerian freedom fighters shifted international and French citizens’ support towards criticism of the inhumane methods of extracting information and the independence cause, resulting in brutal public massacre in Paris in 1961 and illegal deportations of French Muslim citizens (Rouaba, 2021) . But even international legislation could not help the Algerian prisoners. The Geneva Convention outlines specific processes to support prisoners of war, but could not be applied as this warfare was an unrecognized internal conflict and Algerian prisoners were not considered prisoners of war by the French (Branche, 2017). The French government’s refusal to acknowledge the war going on made it extremely difficult to employ this legislation, and imprisoned and tortured Algerians received no reparations.

Even Algerian Muslims who sided with the French failed to benefit from aligning with the mainland. Over 150,000 Algerian Muslims fought for the French Army during the war for independence (Al Jazeera 2010). Known as Harkis, these native Muslim Algerians provided aid to the mainland armed forces in the attempt to suppress the FLN’s attacks. However, as the war came to a close and French troops withdrew, the French government mandated the army to forcibly disarm all Harkis, and forbid Algerian Muslims from immigrating to France (Al Jazeera 2010). Harkis quickly became synonymous with ‘traitor’ to the Algerians, creating dangerous

conditions for those who fought for French control in the country. Those loyalists who were able to reach France after being smuggled in were forced into primitive camps on the French Mediterranean border, and had extreme difficulty in finding jobs and faced discrimination (Miller 2013). The abandonment and betrayal of the Harkis created resentment that still is felt today, and with no apologies made by the French government, cultural tensions continue to exist in many Algerian-Muslim communities.

### **Political Legislation**

In the 21<sup>st</sup> century, political legislation implemented by non-Muslim individuals attempted to control and shape Muslim identity within France, creating an alarming trend of restricting women's choices in the name of secularity. Three major pieces of legislation have catalyzed widespread impact on this issue: the 1989 *Affaire du Foulard* ("Scarf Affair"); the 2004 Law on Secularity and Conspicuous Religious Symbols in Schools; and the 2010 Banning of the Concealment of the Face in Public Spaces (Fredette, 2015). This string of legislation focused on reducing visible religious symbols within French culture in order to promote the ideal secular state and address various aspects of state concern. The major issues targeted assimilation and integration of Muslims into France, women's rights, and the shaping of the French national identity in the 21<sup>st</sup> century (Fredette 2015). The legislation, paired with political rhetoric, attempts to control the wearing of the veil as a religious practice creating a wider rift between the French state and its Muslim communities.

The 1989 *Affaire de Foulard* was initiated after Muslim girls wore hijabs to public schools, sparking debate in the National Assembly about French national integrity and the impact of immigration. Concerns of weakening the French state via an increased population of Islamic immigrants strengthened the appeal of Jean's Marie Le Pen's archconservative National Front

party (Fieschi, 2020). The legislation promoted the idea of the veil as a symbol of the Muslim immigration threat to the integrity of French culture. The premise of debate focused on the reluctance to accept immigrants who would not adhere to secular French society. Various elements of this debate resurfaced in future legislative debates including: the threat to the secular state of France; ethnic-based politics; and the pitfalls of attempting to forcibly assimilate immigrant communities into French culture.

The 1989 debate sparked further action in 2004, when the Law on Secularity and Conspicuous Religious Symbols in Schools passed in the National Assembly, which forbade students from wearing garments or symbols that were affiliated with religious denominations (Fredette, 2015). This policy posed stricter legislation which broadly banned citizens from wearing any visible religious-based garment or object in public schools. Banned garments included the hijab, niqab, and burqa, disproportionately affecting Muslim communities as many other religious denominations were able to find loopholes such as sending their children to private schools to sidestep the legislation (Fredette, 2015). As many French Muslim families live in a lower socio-economic status, often due to systematic discrimination, attendance at costly private schools is often unattainable (Hudson Institute, 2016). This political action served as a stepping stone for future legislation containing even more direct implications that affected veiled Muslim women.

The legislation became more particular with the Banning of the Concealment of the Face in Public Spaces in 2010 which targeted facial coverings in all public spaces. While Islam is not specifically mentioned in the written ban, the rhetoric asserted in the French senate surrounding the ban has disproportionately affected the Muslim community (Crosby, 2014, 52). The general quality of the law makes it appear non-discriminatory, but the legislative debates that occurred

during the ban's development showed that the niqab and burqa were the main targets. Violating the law results in monetary or educational obligations, as individuals are required to either pay €150 or take an educational course on French citizenship. Fines for anyone forcing a woman to wear a burqa range from €30,000 to €60,000, with potential prison sentences lasting up to two years (Fredette, 2015). While the legislation's wording does not specifically target veiled Muslim women, the rhetoric within the French Assembly clearly indicates an intentional focus on Islam and the potential threats that many political leaders within the country believe it creates. Supporters of the ban perceive the veil as a symbol of non-progressive Muslim culture and repression of women's rights which contradicts their message of French secularity and western feminism.

In 2021, a legislative amendment that specifically restricts girls under eighteen from wearing clothing which symbolizes religion or female suppression was passed in the French Senate and is awaiting a decision from the National Assembly. In large part, the support of this ban stems from the far-right conservative party, with candidate Marine Le Pen actively pushing for even more radical bans on the hijab and intense restrictive immigration policy (Fieschi, 2020). Many people have protested the proposed ban, arguing that it is discriminatory and in violation of age-of-consent laws. In France, the age of consent is fifteen, therefore the ban would attack the personal freedoms of Muslim women (Al Jareeza, 2021). This discrimination directly ties to the role of secularity within the French state and the effects that it has within the country's political sphere.

## Secularism

In order to understand the complexities of the political situation in France, one must understand the employment of *laïcité* within French politics. *Laïcité*, French for secularity, describes government systems that are based on the separation of church and state and expect believers to practice religion in private (Facing History, n.d.). While the term generally refers to the state's neutrality towards religious groups, many political figures in France interpret it as a cultural statement that represents the Republic's values, which are centered around a general French identity that does not visibly include religion (Winters, 2004, 5). This concept has become a foundational structure which the French National Assembly has built legislation upon, and any deviation from this, especially from immigrant populations, is seen as a refusal to integrate into French society (Fredette, 2015). Because of the structure of their secular identity, France is very unwilling to accommodate Islamic religious practices, placing bans on religious items and face coverings in 2004 and 2010 respectively as previously described (Soper and Fetzer, 2007). The legislation deems the hijab, niqab and burqa as a violation of *laïcité* and denies equal rights to women. Any violation is punctuated by the fines placed upon any who do not abide by the law.

The ongoing complications between religion and state paired with the development of Muslim identity politics and manipulation of media by politicians creates a complex entanglement of religious freedom, body sovereignty, and state policy. The 2021 amendment restricts "signs or clothing in public spaces that would ostensibly manifest a religious affiliation or that would signify the inferiority of women to men", and attempts to control the anti-separatism movement that President Macron's government has continued to support (Tissot, 2021). These political attempts to ban the hijab utilizes secularity as justification for this



legislation, but in reality, flips the original meaning of the term on its head by targeting Islam specifically.

### **Rhetoric vs. Legislation**

The vagueness of written legislation allows for denial of targeting specific groups, however, the political rhetoric fuels the spirit of discrimination proposed by such laws. Lack of definitive items in legislation provides protection against criticism that the law targets Muslim communities, while the rhetoric that is utilized by French officials directly references Islam and the act of wearing a veil as a major point of contention. Political debate in the National Assembly and Presidential campaign presents Muslim women in two ways: (1) either the women wearing the hijab, niqab, or burqa require rescuing from France to break free of the constraints of Islam as they are uneducated or unable to act for themselves; or (2) they are a threat to the secular state and must face consequences (Fredette, 2015). Former President Nicolas Sarkozy took advantage of the debate over the burqa in his presidential campaign by arguing that the veil and the ‘radical’ ideals that it signifies have no place in secular France, and are unacceptable to the country’s idea of freedom (Chrisafis, 2009). By utilizing the veil as a link to radical Islamic rhetoric, the conversation is shifted to discussing the threat Islam poses to women’s rights in the secular state, all the while ignoring Muslim women who politically support wearing the veil. Non-Muslim politicians sponsor this legislation, utilizing their position of national decision-making power to wield the idea of the secular state as a weapon against Islamic beliefs.

This discriminatory perspective supports the secular identity of France, with proclaimed concern for Muslim women not stemming from genuine fear for their wellbeing, but rather frustration over women who do not subscribe to the Western feminist perspective. Historically,

many feminist agendas ignore the circumstances or cultural practices of Muslim women (Crosby, 2014, 3). This approach, paired with harmful stereotypes associating Muslim women with radical Islamic sentiments which deem them incapable of controlling their own lives, disregards women who prefer to be veiled. The blatant disregard of personal preference only continues to marginalize Muslim women, in direct contradiction of the feminist agenda which politicians supposedly promote.

### **Muslim Women's Identity and Narrative**

For many who support secularity within France, women wearing the veil sends a message of the social and political presence of the rampant Islamophobia within France (Winters, 2009, 2). Muslim women directly engage in the transpolitics regarding the ethnic and postcolonization factors which greatly influenced the state of France. Their involvement highlights the relations between France culture with postcolonial immigrants that have settled in France and continued their cultural practices. French politicians believe that individual freedom for Muslim women is only attainable through the secular state. However, this approach lacks accurate representation for women in the political decision-making process, and continues to restrict their freedom, safety and way of life.

The political narrative over the decades with the development of this legislation builds a national identity for Muslim women without their consent. While French politicians claim to be concerned about poor, constrained Muslim women, they actually create a hostile environment towards them with little understanding of their perspective. Prominent political figures, such as former president Nicolas Sarkozy, describe veiled women as prisoners who are cut off from all social life and deprived of identity which only decreases the visibility of Muslim women within

France. These false perceptions continue to benefit political parties while forcing Muslim women to either adhere to the laws or challenge the secular state (Chrisafis, 2009). Such contradictory behavior by the French government's rhetoric and legislation only serves to cast longer shadows over veiled Muslim women, the very population that they claim so committed to save.

The depth of the charade of protecting Muslim women goes even further when the three pieces of legislation are evaluated through the global lens of Western powers influencing Muslim communities Lila Abu-Lughod (2002) expands upon this notion on a more global scale, making the argument that Western forces have utilized veiled Muslim women as visible result of Islamic fundamentalist rhetoric in the Middle East, and that Western powers can help 'save' these women, emulating the white savior complex to further political decisions that serve their own interest. This complex reveals itself in France as political figures continue to base their argument that the secular state of the country protects Muslim women from the threat of Islamic fundamentalist beliefs being forced on them. Whether legislation dictating what they can not wear being forced on them does not seem to render concern to the legislation or its supporters. In addition to this, secular state supporters view wearing the veil as a sign of protest against the French identity and a faith-based strategy to pressure individuals to convert to Islam. Many French politicians worry that the veil is thrust upon women without choice, and is associated with violent action from Muslim fundamentalists and terrorists, making it a threat to security and public order (Winters, 2004, 7). However, the legislation itself is taking away women's choices to wear the veil, which contradicts the idea that the government is supporting equality and dignity for Muslim women.

To extend the perceptions of Muslim assimilation into French secular society based on the garments that women wear only continues to 'Other' cultural practices of Muslim women

within the country. Many activists and scholars challenge French politicians and citizens to think more closely about how the debate over the veil ignores the harmful expectations of Western feminine beauty images to women. Violence that is embodied in Western cultural practices is not easily visible as it is branded to be an “aesthetic choice” (Mernissi, 2004, 299). This lack of visibility only aids the arguments that promote the banning of the hijab and burqa, as it removes the act of veiling from being a part of the religion and instead becomes a symbol of extremist defiance, or of forced suppression (Fredette, 2015). Interpretation of the violation of body sovereignty emulates the experience that many veiled women may have in France. Western feministic structures often do not offer support to Muslim women, but rather create pressure to unveil in order to be a modern, independent woman. This pressure only creates a further divide in the country, and fails to accurately address the underlying issues presented in the divide over the secular state and religious freedom that are contributing to the current state of affairs.

## **Conclusion**

Decades of French legislation focused on banning religious garments and face coverings continue to disproportionately affect Muslim women across the country. As new legislation continues to be developed in 2021, the hopes that there will be peaceful and inclusive negotiation within this debate becomes less and less likely. As the legislation becomes more targeted towards Islam itself, tension continues to grow between Muslim communities across France, with activists around the globe protesting the French government’s actions and their motives behind the policy making. As the situation progresses, it becomes increasingly important for French citizens to reconsider the role secularity plays within the country, how it supports their fellow citizens, and how this discrimination in the name of secularity promotes benefits for some while disproportionately affecting others in a negative manner.

While France promotes gender equality as a staple of French freedom, to detain young female students from school and dismiss veiled Muslim women from the workplace and other public areas only serves to create inequalities for women across the country based on their expression of faith and cultural heritage. This serves to make a moot point for the French government, who has been unable to sensibly explain how these policies do not create the same suppression that they believe the veil creates for Muslim women. For a country whose foundation rests upon liberty, equality, and fraternity, the unwillingness to address this national issue in a culturally inclusive manner seemingly contradicts the constitutional rights that ensure equality for all French citizens. This blindness only creates a more complex, restrictive system in which Muslim women who choose to wear the hijab, burqa, or niqab must face and make decisions that ensure their survival within French society while holding true to their cultural and religious beliefs.

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