

Indivisibilité, Sécurité, Laïcité: The French ban on the burqa and the niqab

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Abstract

In France, secularism is celebrated in the public sphere. The paper makes *general* arguments about France's changing identity and *specific* arguments about the burqa and niqab ban. It explains how French history shaped the ideology of secularism and of public civil religion, and how colonial legacy, immigration, fear of terrorism and security needs have led France to adopt the trinity of *indivisibilité, sécurité, laïcité* while paying homage to the traditional trinity of *liberté, égalité, fraternité*. While the motto of the French Revolution is still symbolically and politically important, its practical significance as it has been translated to policy implementation has been eroded. The emergence of the new trinity at the expense of the old one is evident when analyzing the debates concerning cultural policies in France in the face of the Islamic garb, the burqa and the niqab, which are perceived as a challenge to France's national secular *raison d'être*. The French Republic has attempted to keep public space secular. Is the burqa and niqab ban socially just? Does it reasonably balance the preservation of societal values and freedom of conscience?

It is argued that the burqa and niqab ban is neither just nor reasonable in the eyes of the women and girls who wish to wear the Muslim garb, their families and community, and that paternalism that holds that the ban is for the women's own good is a poor, coercive excuse. Claims for paternalistic coercion to protect adult women from their own culture when they do not ask for protection are not sufficiently reasonable to receive vindication.

Key words France, burqa, coercion, *égalité, fraternité, indivisibilité, laïcité, liberté, niqab, religion, sécurité*

INTRODUCTION

This paper analyses French cultural policies in the face of what the French government perceives as a challenge to its Republican secular *raison d'être*. Between 1877 and 1905, France progressively adopted the principle of *laïcité* which prohibits public manifestations of religion. In more recent years, *laïcité* was invoked for prohibiting the wearing of the hijab at school and the wearing of the niqab and the burqa in the street. This prohibition has proved to be problematic for some segments of the French Muslim minority. Tensions have been growing between the wider French communities and Muslim communities as a result of different codes of dress, contested boundaries of freedom of expression, and a series of terror attacks carried out by Muslim terrorists (PBS NewsHour, 2015). In 2015, President François Hollande asked Parliament to extend a state of emergency and to amend the Constitution in order to

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adequately address terrorism and promote national security. Adam Nossiter and Liz Alderman (2015) reported that “Secular France always had a complicated relationship with its Muslim community, but now it was tipping toward outright distrust, even hostility”.

During the second half of the 20th century, controversy emerged around the Muslim headscarf and dress. For some, the struggle against Muslim dress signifies secularism and freedom. For others, this struggle signifies intolerance and anti-Muslim sentiments (Bowen, 2007; Laborde, 2008, 2017). How can a western democracy, said to be one of the foremothers of liberalism, be so obsessed with how people dress? Does this obsession go hand in hand with the values of the French Revolution (1789-1795)? What does this struggle tell us about the place of multiculturalism in France?

France has attempted to keep public space secular. The veil controversy erupted in 1989 when three Muslim girls who enrolled in Gabriel Havez, a public school in the town of Creil, arrived in school while wearing the traditional headscarf, the hijab (Wallach Scott, 2005; Chin, 2017, pp. 192-193). That controversy was accompanied by a different yet related discussion concerning school attendance of Jewish students on Shabbat (Saturday). Then public schools were the focal point of the debate. The complexity of the debate is manifested in the studies of Weil (2004); Willms (2004); Idriss (2006); Heine (2009); Haarscher (2010); Adrian (2015), and Akan (2017). Critiques of multiculturalism in France argue that multiculturalism is bad for democracy, is bad for the Republic, is bad for women, and is undermining public order (Okin, 1999; Bakht, 2012; de Latour, 2013). I explain the reasoning of those who speak of compatibility between liberalism and French public *laïcité*, and the criticism of *laïcité* as a non-liberal concept.

The article is divided to three parts. The discussion is opened with background information about the crystallization of French values. I elucidate the alternative trinity that the French offered to replace the Father, the Son, and the Holy Spirit: *Liberté, égalité, fraternité*. This trinity became the motto of the Republic. It is further argued that the principle of *laïcité* is no less significant than the *liberté, égalité, fraternité* motto. I examine the historical roots of *laïcité* and the extent to which *laïcité* can be reconciled with the motto of *liberté, égalité, fraternité*.

Part II explains how colonialism, immigration, and terrorism have shaped the present discourse on state and religion in France. It is argued that in recent years, in the name of the Republic, a new trinity has emerged: *indivisibilité, sécurité, and laïcité*. While still paying homage to the traditional trinity of *liberté, égalité, fraternité*, this historical trinity has been downgraded in importance. Thus, it is argued that in the French society and politics we discern first and second order principles. The first order principles are the traditional *liberté, égalité, fraternité*. The second order principles are *indivisibilité, sécurité, and laïcité*. The second order principles are superimposed on the traditional motto, and clear tensions have emerged between the two sets of principles. The requirement today is clear: People should be French and leave their cultural identities preferably behind or, at the very least, at home. The citizen does not have an identity that is independent of the state (Troper, 2000, 2009, 2016). Everyone is welcome provided that they embrace French national Republicanism.

Part III analyses the ban of the burqa and niqab. On October 11, 2010, France became the first European country to ban the full-face Islamic veil, the burqa and the niqab, in public places. These Muslim garments have attracted disproportionate attention in French politics and public deliberations. The controversy around women's dress exemplify how during recent years, in the process of the construction, deconstruction and reconstruction process of society, the original principles of the French motto -- *liberté, égalité, fraternité* -- have been eroded. Liberty of religion is restricted. The meaning of equality has changed. National solidarity has been constricted: *fraternité* means supporting each other *as long as the French way of life is accepted*. Consequently, *fraternité* has been replaced with division and

fragmentation. The Muslim minority in France at large feels discriminated against and marginalized. The French Institute of Public Opinion (IFOP) found that 42% of Muslims in France have experienced religious discrimination at least once in their lives (Guessous, 2019). Muslim women who wear the niqab report “a disturbing level of verbal abuse” and sometimes physical abuse (strangers “spitting on them or trying to rip off their veil”) (Fredette, 2015).

Let me proceed by shedding light on the main values and principles that have been shaping French history and society.

PART I

LIBERTÉ

Montesquieu and Voltaire shared a bitter opposition to religious persecution and slavery, opposition to censorship, deep skepticism regarding European imperialism, and commitment to judicial reforms and the rule of law. Both recognized the importance of the rise of modern commerce and the advent of constitutional government in Britain, and both were supportive of both developments, with some reservations (Levy, 2014, p. 159). In accordance with Montesquieu’s *The Spirit of Laws* (2001, Book 11, p. 172), freedom should not be unlimited. In societies directed by laws, “liberty can consist only in the power of doing what we ought to will, and in not being constrained to do what we ought not to will.” Montesquieu (2001) differentiated between independence and liberty. “Liberty is a right of doing whatever the laws permit, and if a citizen could do what they forbid he would be no longer possessed of liberty, because all his fellow-citizens would have the same power.” It is the role of the state, via its government and constitutional arrangements, to organize and regulate liberties. The government articulates to its citizens what they ought to do. Montesquieu (2001, Book 1, p. 22) emphasized that no society can subsist without a form of government. “The united strength of individuals... constitutes what we call the body politic.” And the body politic needs to be solidified and unified. Therefore, also in accordance with Rousseau’s teachings, minorities were incorporated into society and needed to accept the general will once it was articulated. Interventionist and coercive Catholicism that penetrates all spheres of life was perceived as an obstacle to this desired articulation.

Indeed, freedom of religion is vital. Article 10 of the Declaration of the Rights of Man and the Citizen (1789) postulates: “No man must be penalised for his opinions, even his religious opinions, provided that their expression does not disturb the public order established by the law.” The need to preserve public order is reiterated time and again in the French discourse and debate. As the Revolution was bloody and chaotic, people were acutely aware of the need to secure public order by law (Tackett, 2015; Linton, 2015). This need to preserve public order is seen as a precondition to a civic society. It is accentuated time and again in French history, also in the context of Muslim dress. The State has the power, and responsibility, to maintain peace and public order.

ÉGALITÉ

Article 6 of the Declaration of the Rights of Man and the Citizen (1789) had set forth the principle of *égalité*:

The law is the expression of the general will; all citizens have the right to participate in lawmaking, personally or through their representatives; the law must be the same for all, whether it protects or punishes. All citizens being equal in its eyes, are equally eligible for all public honours, positions and duties, according to their ability, and without any distinction other than those of their virtues and talents.

The Revolution promoted the idea of gender equality. Various legislative acts accorded women unprecedented rights to equal inheritance and divorce (Chabal, 2020, p. 136). Women

featured prominently in revolutionary protests. But these achievements to promote gender equality were short-lived. The practices of republican universalism during the Revolution were accompanied by statements regarding the “natural” gender differences which justified the exclusion of women from political citizenship. Thus, in 1793, Olympe de Gouges was sent to the guillotine for publishing *The Declaration of the Rights of Woman* (1791), aimed to supplement the *Declaration of the Rights of Man*, in which she spoke of granting women the same rights as men, criticized the revolutionaries for having forgotten women, and denounced the customary treatment of women as objects. De Gouges was condemned as a counterrevolutionary and denounced as an “unnatural” woman. In 1804, Napoleon reversed the egalitarian legislative acts in the amended Civil Code. Women were relegated back to the status of children (Chabal, 2020, p. 136).

The Republican political discourse had also established the link between women and religion. Like the female sex, religion was considered the source of the irrational and the violent; it was also the domain of the traditional and the hierarchical (Wallach Scott, 2017, p. 35). Women have the same desires as men, but they do not have the same right to express them. Rousseau (1762) opined that “people would be disgusted with a woman’s whims if they were not skilfully managed”. There is a clear gender hierarchy. The man should be strong and active, while the woman should be weak and passive. Women need and are dependent on men.

FRATERNITÉ

Fraternity – or brotherhood – is about moral obligations and harmony. It is a derivative of the general will, emphasizing the unity of the Republic and a sense of affinity to the national body and values. The idea of ‘the general will’ stems from the philosophy of Jean-Jacques Rousseau. Indeed, Rousseau’s philosophy is essential to the understanding of French social and political life. The mission of the state is to create a citizen in Rousseauian terms. The general will give the community its identity (Rousseau, 2017). An understanding emerged that rights should be accompanied by a consideration for rights of others, and also by a willingness to accept reasonable adjustments.

Since 1848, the idea of fraternity has been frequently preached when social inequality was marked. During the nineteenth century, it inspired humanitarians who claimed that this was a natural end for people, and that democracy aimed fundamentally at the progressive attainment of this objective. Fraternity emphasizes the inter-personal relation of mutual care and love for one another, since the basic value of human existence lies in communal, other-regarding, relations. Individuals should not misuse their freedom but rather cooperate and help one another in creating a meaningful society. *Fraternité* implies a general sense of societal cooperation, depicts a picture in which members of society create, in the spirit of the family, a common framework - both material and mental - which is a necessary condition for the good life. Fraternity instructs to treat others not simply as though they have rights equal to ours but with a loving concern for people’s welfare, aiming to promote other's happiness, thus building a united family of mankind (Stephen, 1967, pp. 221-261; Barker, 1942, pp. 418-419; Ambroise-Rendu, 2012).

The motto *liberté, égalité, fraternité* became the official motto of the French Republic. All are entitled to liberty, equality and fraternity provided that they abide by the general will and contribute to national cohesiveness. But hammering home the principle of anti-clericalism was no less important. One of the chief aims of the Revolution was to weaken the political, social and cultural influences of the Roman Catholic Church. Inspired and influenced by the ideas of the Enlightenment philosophers, Charles-Louis de Secondat, Baron de La Brède et de Montesquieu (1689–1755), Voltaire (1694-1778), Jean-Jacques Rousseau (1712-1778), Denis Diderot (1713-1784) and Jean Le Rond D'Alembert (1717-1783), the

revolutionaries wished to promote scientific reasoning and to exclude religion from politics as they saw how religion was used as a tool for oppression. Clericalism was perceived as backward, superstitious, and anti-rational. Clericalism undermined the brotherhood of men.

LAÏCITÉ

Laïcité was another term coined in the 19th century (Le Grand, 2013). *Laïcité* postulates the existence of a secular ethic, grounded in science and philosophy, which acts as a civil religion and educational tool to implant tolerance (Baubérot, 2009, 2010; Jennings, 2013, 2000). *Laïcité* was an integral part of French Republicanism and defined as anti-clerical.

Some scholars see *laïcité* to be secularism, or secularity (Baubérot, 2010, pp. 57-68; Troper, 2016, p. 317). Emile Chabal (2017, 2020) writes that he tends to use secularism as the standard translation of *laïcité*, viewing the latter as one form of the former. Others perceive the concept in more ideological and militant terms. Secularism is a general notion that religion should be left out of government. *Laïcité* views religion as something to be confined to the private sphere. *Laïcité* (as applied in France) involves driving religion (to the extent that this is possible given the country's cultural heritage) out of the public space. Myriam Hunter-Henin (2020, chap. 2) argues that *laïcité* also fits a mode of secularism that is welcoming and inclusive towards religious freedoms.

Laïcité is *not* about the protection of religions from state interference. Conversely, the state has a very active and important role to play in the administration of *laïcité*. *Laïcité* was besought to prevent the encroachment of religious affiliations and instill civic values. It also required stripping individuals of any affiliation that would distinguish one citizen from another. It was only as abstract individuals, divested of all particularity that citizens could be treated equally (Chin, 2017, p. 175). In the Republic's public space, be it in schools, in public offices or on the street, people are French. Their religion should be unidentifiable (Fernando, 2009).

In the Third Republic (1870-1940), the secular state primary education system was established during the 1880s while the Catholic Church was disestablished in 1905 (Laborde, 2008, p. 7). In the First and Second Republics, *laïcité* was an idea. Thereafter, it became concrete. The Republic actively implemented the secularization of French society by introducing secular schools, abolishing Sunday as the day of rest, secularizing the health care system and cemeteries and banning public prayers (Hunter-Henin, 2020). The law on the Separation of the Churches and State (concernant la séparation des Églises et de l'État) was passed by the Chamber of Deputies in December 1905. The law, which was liberal in essence, reflected strong anti-clericalism and established state secularism. It sought a compromise between a strengthened republican state and the Catholic Church. The law was built around four principles: furthering freedom of conscience, making religious choice a private matter, separating State and religion, and granting equal respect to all faiths and beliefs (Guerlac, 1908; Weil, 2009). The Republic does not recognise, fund or subsidise any religion (McGoldrick, 2006).

The term *laïcité* appears for the first time in the Constitution of the Fourth Republic (1946). The present French Constitution, adopted in October 1958, replaced the former Constitution. Article 1 of the Constitution holds: "France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs." As a result of this clause, France's authorities do not collect information or publish statistics about religion (or ethnicity). The extent to which France respects all beliefs is open to interpretation and examination.

In the next part of the article I examine the historical and political factors of

colonialism, immigration, and terrorism that largely shaped the discourse and attitude to Islam in France and affected the thinking about state intervention into private religious matters.

PART II COLONIALISM

French colonialism during the 19th and 20th centuries meant that France had to deal with different cultures, religions and nationalities. At the height of the colonial era, circa 1920, the French empire stretched over 11.5 million sq km across five continents, encompassing lands in South America, Africa, Southeast Asia and the South Pacific (Chabal, 2020, p. 35). In the 1830s, France invaded North Africa and, in the next decades, occupied Algeria, Tunisia, and Morocco. France also expanded its empire deep into areas in western and central Africa (Aldrich, 1996; Thomas, 2011). Until the close of the nineteenth century, French colonialism was based on assimilation, aiming to "civilize" its colonies by absorbing them administratively and culturally (Betts, 2005). A moral mission was declared: to lift the colonies up to French standards by bringing Christianity and French culture. In 1884, the leading exponent of colonialism, Jules Ferry, declared: "The higher races have a right over the lower races, they have a duty to civilize the inferior races" (*World Heritage Encyclopedia*, 2021; Conklin, 2000). Assimilation that entailed full citizenship rights was practiced although in reality "assimilation was always receding [and] the colonial populations treated like subjects not citizens" (*World Heritage Encyclopedia*, 2021).

A key issue was the *foulard*. The French believed that the Algerians would oppose assimilation, so long as the women were subjugated. French women settlers staged unveiling ceremonies for Muslim women to identify their liberation with the French cause (Wallach Scott, 2017, p. 57). The assumption was that the key for Muslim emancipation was secularization, that religious and cultural differences must be deemphasized in order to permit women the possibility of equal treatment (Kimble, 2006, p. 125). Frantz Fanon explained that in the colonialist program, it was the woman who was given the historic mission of shaking up the Algerian man. The veil was perceived as a symbol of the inferior status of the Algerian woman. The French tasked themselves to free Algerian women. Fanon (1965, p. 39) wrote: "Convening the woman, winning her over to the foreign values, wrenching her free from her status, was at the same time achieving a real power over the man and attaining a practical, effective means of destructuring Algerian culture". The French believed that if they were able to win over the women, then the rest of society will follow and then the society as a whole would accept assimilation. Algerian women were invited to play "a functional, capital role" in the transformation of their lot. They were pressed to resist a centuries old subjection (Fanon, 1965, p. 38).

Algeria was the most important colony in the French empire. It enjoyed a unique status as it was considered, from the Second Republic onwards, not only a colony but an integral part of France. In 1865, France extended nationality to all Muslim natives in Algeria. This status gave them the right to serve on equal terms in the French Armed Forces and civil service as well as the right to migrate to France (Chin, 2017, pp. 37-38). However, Muslims had to renounce Islamic civil law in order to access full citizenship. They were French subjects but not French citizens. Consequently, they did not have the same political rights. As long as they were governed by Moslem Sharia law they remained French *subjects*. They could not be French *citizens* because they broke the golden rule of equality before the law (*égalité devant la loi*) upon which French citizenship was founded (Brett, 1988, p. 454). If Muslims wished to become French citizens they had to submit to the French Civil Code like all other French people (Bousquet, 1953, p. 599).

The Algerian War, also known as the Algerian War of Independence or the Algerian Revolution, was fought between France and the Algerian National Liberation Front (Front de Libération Nationale, FLN) from 1954 to 1962 (Fraleigh, 1967). The war was bloody and brutal. Both France and the FLN used indiscriminate violence, terror and torture. French sources suggest that between 300,000 and 500,000 Algerians died in the war, while Algerian sources claim that as many as 1,500,000 had died (*Britannica*, 2021). The war caused the fall of six French governments, and led to the collapse of the Fourth Republic. The Algerian War sets the tone for decades of often tense relations, filled with hostility and suspicion between France and its former African colonies. Sentiments of guilt, resentment, suspicion and mistrust rose and prevailed. The Algerian War left deep scars in the national memories of both France and Algeria (Horne, 2006). The conflict ended on March 18, 1962 in a military stalemate but in a political victory for the rebels as Algeria gained its independence from France.

France continues to struggle in its efforts to integrate its Muslim minority. Many second- and third-generation Muslims of North African origin feel like strangers in their country of birth (Irish and Ould Ahmed, 2012). European colonialism in general, and French colonialism in particular, created a global racial/ethnic hierarchy that privileges European people over non-European people. It also created a spiritual hierarchy that privileges Christians over non-Christian/non-Western spiritualities institutionalized in the globalization of the Christian culture (Grosfoguel, 2011).

IMMIGRATION

France is a land of immigrants who came from all over the world. Late in the 19th Century, it absorbed many immigrants from Belgium and Italy. The 20th Century also saw the establishment of other European and African communities, among them Portuguese and Spanish (Vickstrom, 2019; World Atlas, 2021). The flow of Algerians to France increased after WWI. The number of immigrants was so great that by 1930 France had the highest rate of foreign population growth in the world (Chin, 2017, p. 25; Willms, 2004).

The critical consequences of colonialism are suppressed, pushed aside and ignored in the name of *indivisibilité*. France adopted policies aimed to cover the scars. The claims of diversity and the right to be different, which received some recognition, have been replaced by strident assimilationist policies adopted by the political left as well as by the political right (Audard, 2001). Anyone could, in principle, become French and have an equal chance in life to French-born people – but on condition that they assimilate.

During the 1990s and 2000s, public debate over France's colonial past became prominent. Slavery, the Algerian War, the treatment of indigenous people during the colonial period, colonial violence and responsibility for its conduct at home and abroad occupied the political discourse and were an integral part of neo-Republicanism that was embraced by the political right. French Republicanism and France's civilising mission were inextricably linked (Chabal, 2017; May, 2016). The integration of new immigrants was challenging as always. It was linked not only to questions of national identity but also to public safety. The aim was, as ever, to integrate the immigrants in accordance with the secular, Republican French model (Maillard, 2010; Weil, 2009; Hennette Vauchez, 2017). And those debates over immigrant integration also raised concerns about Muslim women's oppression (Morgan, 2017; Khan, 2021). *Laïcité* was celebrated and was used as a rhetorical and political tool, especially by the political right, to denounce public expressions of Islam (Chabal, 2020, p. 120). Islamophobia crept in as a result of the headscarf "threat" to French Republic, the refugee crisis in Europe during the second decade of the twenty first Century, and growing concerns regarding political Islam and its violent manifestations. The value of *fraternité* was shaken as its meaning was redefined within the bounds of the Republic. It became accepted that

laïcité prescribes the boundaries of *liberté* in order to promote national unity, *indivisibilité*, while the value of *égalité* was undermined due to fears of Islam and, increasingly, terrorism.

TERRORISM

September 11, 2001 constitutes a watershed in international relations. Al Qaeda's terror attack created havoc not only in the United States but in the world at large. Since then, the USA has been engaged in wars in Afghanistan and Iraq, and it has sent troops to other parts of the Middle East as part of the so-called "war on terror" (Lubin, 2021). French forces have been involved in the ongoing war in Afghanistan since October 2001. To defend freedom and democracy, Western democracies have diminished freedom and democracy in their own countries. In the name of defeating terrorism, civil liberties have been undermined (Akram and Johnson, 2002; Dworkin, 2003; McGhee, 2008; Grayling, 2010; Nanwani, 2011). Muslims are particularly targeted because many of today's terrorists argue that they act violently in the name of Islam and also because they are the most visible in public space (Cesari, 2020). Terror, coupled with vast waves of immigration and problems in the poor city suburbs, became a major concern in European social and political lives, especially in France.

France had experienced terror attacks prior to 2001, but after 9/11 sentiments of fear, insecurity and resentment pushed the French administration, on the one hand, and the French Muslim minority, on the other, to toughen their positions. The 2004 "veil law" banned the wearing of all conspicuous religious symbols in state schools, including Muslim headscarves, Jewish skullcaps, Sikh turbans and large Christian crosses (Adonis, 2003; Wallach Scott, 2005; Motha, 2007; Akan, 2009). The continued Palestinian strife resisting Israeli occupation, the wars in Afghanistan and Iraq, and the universal jihadi terrorism, all have influenced the French (and European discourse at large) to harden their stand on immigration and the relationships between the Christian-heritage majority and its religious minorities in France and in Western Europe at large.

The French discourse revolved in the main around the need for a united Republic, the fear of disintegration, and the urgent and growing need for *sécurité*. The idea of *indivisibilité* grew in importance as republics emerged, disintegrated and reformed. The architect of the Fifth Republic, Charles de Gaulle, emphasized unity over equality and strove to ensure that most political parties identify themselves with the Republic (Chabal, 2020, p. 118; Knapp, 2020). The only community is the French nation. Indeed, the historical tradition of France is of the centralised state, be it under the King, the emperor, or the Republic (Knapp and Wright, 2006). In the public space, the Republic does not acknowledge religious differences but accentuates common citizenship. And there is a need to protect the integrity of the nation.

In the past, the objection was to clericalism that might undermine *the unity of the nation* that makes the Republic strong. Nowadays, the same objection to the Muslim dress is motivated by the fear of radical and political Islam that might disintegrate the nation. Every time there is a terrorist attack in France, the discussion revolves not only about *sécurité* and the need to preserve public order but also about the place of Islam in society and the way it should be managed and how the Muslim population should be tamed (Alouane, 2020). Gilles Kepel (2016) argued that there is a continuity between religious radicalisation and terrorism. Fighting terror therefore justifies curbing religious freedom, especially when Islam is concerned. The tool to fight against radical Islam is *laïcité*. The old trinity received further blows due to the necessities to maintain French character, the Republic, public order and security.

In 2012, a terrorist attacked a Jewish school in Toulouse. A teacher and three children were killed (BBC, 2012). During 2015-2018, France was the target of a series Islamist terrorist attacks that cost the lives of dozens of people and the injury of hundreds of other

people (BBC, 2016, 2018; Rubin and Aurelien Breeden, 2017; Guardian, 2017; Chrisafis and Willsher, 2018; Willsher, 2018; Bogain, 2019). In the wake of those terror attacks, yet again debates were vigorously held over France's colonial legacy, personal liberty, the need to preserve public order and security, civic culture, and constitutional powers. Yet again, France's political and intellectual elites set out to re-found and strengthen the threatened Republic (Faucher and Boussaguet, 2018; Breeden and Marcus, 2016; UN News, 2018).

Dounia Bouzar, an anthropology researcher studying Muslim communities in France, said that growing resentment against Islam has left Muslims "to feel like they have to choose between their country, France, and their religion - as if a choice had to be made" (Benoist, 2020). The old trinity suffered more setbacks. While its importance cannot be ignored, it needed to be supplemented with further ideas and qualifications. *Fraternité* gave way to *the idea of* national cohesion as the Muslim community feels an increased alienation from the Republic. *Sécurité* requires sacrifices in *liberté*. The general will and Frenchness require the State to assert its power. Much of the debate has focused on women's dress as a challenge to France's national identity. Why women's dress is so important for the French? What reasons convince the majority of the French public that the State should intervene in such a private matter? How the above national principles manifest themselves in the debate? Why colonialism, immigration and terrorism are instrumental in this debate?

PART III

IS BANNING THE BURQA AND THE NIQAB JUST AND REASONABLE?

People concede that sometimes there are legitimate and reasonable reasons for covering one's face. Covering the face seems legitimate when the reason is ecological or in the interest of one's safety. There seems to be no problem in France about wearing ecological masks. Following the outbreak of the COVID-19, face masks became mandatory. People cover large parts of the faces in very cold days of winter. Thus, concealment of the face as such is not the problem. The reason for it is. In the spirit of *laïcité*, France does not accept concealment for religious reasons. The same reasoning – the national interest and good citizenship – serve to justify this duality. During the pandemic all are required to show 'good citizenship' and adopt 'barrier gestures' to protect the national community (McAuley, 2020). The fact that the scrutinized religion is Islam makes the debate more heated and hostile as deep-seated prejudices against Islam. Racism and the limited scope of tolerance toward non-white minorities in France have reached absurd levels during the COVID-19 pandemic.

As a result of colonialism and immigration, France has the largest Muslim population in Western Europe with an estimated number of five to six million Muslims (7-8 percent of the population) (Ahmed, 2019; Piser, 2018). Studies showed that 1,900 women wore the niqab in France and no women wore the burqa. This number represented 0.04 per cent of the French Muslim population (Ahmed, 2019). Data from 2015 showed that 1,546 fines had been imposed under the law (BBC, 2018A). These figures are mentioned to inform of the scale of the phenomenon, not to justify or criticise the law. The numbers as such are not that important a consideration. I would object to one case of murder for family honour and would justify the law that bans it. It does seem, however, that the French discourse over-emphasized a small-scale phenomenon and had overblown its prevalence in French society by using general terms such as *foulard* and *voile* which blurred the issues and created confusion among the public. The true small numbers of wearing the niqab and burqa hardly feature in the public (especially the political) discourse. Let me examine, one for one, the substance of and challenges to each of the following arguments for the burqa and niqab ban.

Liberating women and re-establishing their dignity

As was the case in Algeria, the French authorities saw themselves as coming to the aid of Muslim women and seeking to liberate them, whether or not they wanted to. The burqa and the niqab ban was described as necessary for liberating women and re-establishing their dignity (Morgan, 2017). Supporters of the burqa and the niqab ban argued that these garments relegate women to an inferior status incompatible with the French ideas of equality and the dignity of the person (Lévy, 2011). Sihem Habchi, Director of “Neither Whores nor Submissives”, said that the burqa is a coffin, representing oppression and inhumanity, a violent means to reducing women to naught (Journeyman Pictures, 2019). The burqa and the niqab represent sexism, coercive Islam and male religious chauvinism (Journeyman Pictures, 2016) (other forms of chauvinism are a matter for another discussion). These uncomfortable, shapeless garments suppress women, emasculate femininity, and therefore they are offensive to those who believe in gender equality. They make women look suspicious and impolite. Veiled women deny their existence in the public sphere and deprive themselves of social interaction. Such dresses undermine women’s integration into French society (Journeyman Pictures, 2016). The French establishment came to the rescue of Muslim women.

The French government and parliament decided to free Muslim women although at least some of them wished to wear the burqa and niqab, and there was no evidence of coercion (Channel 4, 2013). For some women, religion comes first. For some women, modesty is the ticket to paradise and to eternal life (Journeyman Pictures, 2016). Some women feel happy and secure when they cover themselves. By enforcing the dress ban, they feel that France denies them choice, denies them *liberté*, infringes the value of *égalité* and certainly betrays *fraternité*. French paternalism gives Muslim women very limited credit, very little trust, in their abilities to decide for themselves what is good for them.

Some French feminists such as Fadela Amara, Sihem Habchi, and Elisabeth Badinter support the burqa and niqab ban (Spohn, 2013; Delphy, 2015). However, their alleged liberal universalism is in fact Eurocentric and paternalistic. The feminist movement at large fights to enable women to express themselves in the way *women* see as appropriate (De Beauvoir, 2010; MacKinnon, 1987, 1993, 2006). Some Muslim women wish to express themselves by wearing the burqa. They say: We do not harm anyone. We do not mean to be provocative. This is the way we choose to express ourselves. This garment makes us happy (Behindtheburqa, 2010). Granted that the burqa and the niqab are not a western-liberal dress; still not everyone needs to accept the same dress code.

Feminists such as Iris Marion Young (2008) and Leslie McCall (2005) encourage ethnic, national and religious diversity. The burqa and niqab are part of the diverse ways by which women express themselves. Many feminists criticize the enslavement of women to fashion (De Beauvoir, 2010; Negrin, 2008; Riegel, 1963). They reject that there is one ideal of beauty. They object to what they perceive as a highly sexualised public space where women are judged by their look and by their dress (Behindtheburqa, 2010). If women were to wear different forms of the veil for non-religious reasons, they would have been probably applauded by feminists. Feminists such as Fadela Amara, a former French Minister for Urban Regeneration and founder of the feminist organization Ni Putes Ni Soumises (Fayard and Rocheron, 2009), need to deal with their own biases and prejudices before they come to liberate women and instead enslave them to the western, liberal form model of liberty (BBC, 2009). The liberal motto is Live and Let Live. Intervention is justified only for good reasons and, on this issue, the above reasons are far from being reasonable and convincing.

Preserving French identity and unity

Troubled by the increasing number of Muslims openly practicing their religion in public, France felt the need to restore “Frenchness” to their streets (Gopalan, 2010). The distinction

between private and public places is of relevance. The *Commission de la Nationalité* (1988) set the aim of achieving national integration, transforming foreigners into French citizens who speak the same language, share the same culture and civic values, and participate in the national life. While in private, these people may retain their religion and culture, in the public sphere all have to be French (Chin, 2017, pp. 172-174). The ban on the burqa and the niqab is comprehensive, referring to adults and children in all public places that are not places of worship. My reading of this ban is that France adopted restrictive, coercive nationalism that negates individual freedom in general and freedom of choice in particular. Just like in Algeria, in the name of liberating women of religious oppression, France coerces them. French oppression replaces alleged Muslim repression. Because individual interests are secondary to national interests, Muslim women must accept the general will. They are unable to express themselves in the dress of their choice.

Generally speaking, in the liberal world there is a presumption against coercion (Cohen-Almagor, 2006, 2021C). A non-coercive policy is preferable to a coercive one. The burqa and niqab do not erode public order. Banning such dress runs contrary to the principles of *mutual* respect. The French government demands respect for *laïcité* and denies respect to those who cannot and who do not wish to leave religion at home. The preservation of individual rights and the dignity of the person as well as the emancipation of the individual from public control should mean that all people in a democracy enjoy the same equal rights. A person's liberty is significant for creating and maintaining her views and actions as long as she does not interfere with and damage the other's liberty.

It is further argued that Muslims in France do not try to coerce non-Muslims to wear the burqa (Behindtheburqa, 2010; Journeyman Pictures, 2016). The principles of respect for others and not harming others should dictate tolerance. Whoever exercises political power must respect the civil, religious and political rights of all members. If people feel uncomfortable witnessing women wearing full dress coverage, this is *their* problem and *they* need to deal with it.

In *Just, Reasonable Multiculturalism* (Cohen-Almagor, 2021) I argued that citizens should be allowed to follow their conceptions of the good as far as it is socially possible, rather than being coerced to forego their tradition. Those who think that the ban promotes societal unity would find it difficult to substantiate their claim. There is no concrete evidence that the law lessens friction. On the other hand, there is evidence that a significant minority of French Muslims resent the law, finding it offensive and intrusive. Some burqa-wearing women suffered verbal and physical abuse (Hunter-Henin, 2012). In 2016, a poll conducted among French Muslim people found that 20 percent of male Muslims and 28 percent of females supported the wearing of the burqa (dw news, 2016). Nilufar Ahmed (2019) wrote that forcing women not to wear the burqa is “no different to the Taliban forcing women to wear it: it removes all control from the woman over her body, and is just part of the sexist narrative controlling women’s dress in public places.”

The burqa and niqab undermine public safety and public order

Fear of terrorism was expressed in the media as an additional reason for the ban. One Muslim imam who supports the ban explained that the burqa is an Afghan dress. Afghan equals Taliban, and Taliban is terrorism (Journeyman Pictures, 2016). France submitted that to ensure public safety and public order it needs to have the ability to identify individuals when necessary in order to avert threats to the security of persons or property and to combat identity fraud. The requirement that people reveal their faces is all the more crucial in the context of the global threat of terrorism (*Sonia Yaker v. France*, 2018, p. 9; *Miriana Hebbadj v. France*, 2018, p. 10). This is in line with Article 18(3) of the International Covenant on Civil and Political Rights (1966) that postulates: “Freedom to manifest one's religion or

beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”

Daniel Pipes (2018) compiled incidents in which niqabs and burqas were used for terrorist incidents. He argues that both garments should be banned on security grounds. However, there are many things that are used and abused but still, they are not banned in democracies. Chemistry books are often used for very good, productive purposes but sometimes they are abused for terrorist bomb-making. Motorcycle helmets are used to protect human lives but sometimes they are abused to rob banks and to serve anti-social purposes. Knives play an essential role in the kitchen and at the dinner table but they are also used for murder. The Internet contains the best products of humanity, but it is also abused by terrorists, criminals and hate mongers. The telephone connects between families and friends, but it is also abused to concoct crimes. The fact that a dress is used and abused in different ways does not justify banning the dress.

Burqa and niqab are offensive

Those who justify the ban on full body cover argue that they find the garment offensive. The sight of women in burqas can be demoralizing and frightening to Westerners of all faiths (Chesler, 2010). The burqa and the niqab are viewed as an affront to the French way of life (Journeyman Pictures, 2016). Elected officials equated the burqa with the Ku Klux Klan and female genital mutilation (Fredette, 2015, p. 53). MP Jacques Myard of the Union for Popular Movement argues that “when you hide your face from someone, *I* am the victim... because you refuse me to show who you are, and this is unacceptable” (Journeyman Pictures, 2016). But surely, not everything that people might find offensive should be banned. If we were to ban all that some people may find offensive, then many kinds of dress, food, art and entertainment would have been banned. Those who find the burqa offensive, demoralizing and/or frightening should deal with their fears and suspicion. Again, this is *their* problem to sort, and the solution should not be simply to ban things that evoke negative sentiments. Many people are afraid of clowns. Should we ban clowns as well?

While I think the issue of offence should be taken seriously, we need to distinguish between profound offence that might be banned, and mere annoyance that should not be banned. Offence is behavior that causes people upset and displeasure. People are offended when they suffer a disliked state of mind, attribute that state to the wrongful conduct of another, and resent the other for her role in causing them to be in that state (Feinberg, 1985, p. 2). *Profound* offence amounts to an attack on one’s sensibilities. It is real and deep, so much so that it might shatter the emotional structure of the affected individuals. Comparably, annoyance is a mild form of offence. It is no more than a nuisance. Elsewhere (Cohen-Almagor, 2006A, 2020, 2021B) I developed the Offence to Sensibilities Argument, arguing that it will take precedence over freedom of religion *only* in cases where profound and direct damage is inflicted upon the sensibilities of individuals, undermining their dignity, especially when the doer’s intentions are to offend the individuals under circumstances in which the individuals cannot avoid. Wearing the burqa and the niqab does not undermine the observer’s dignity, and the women who wear the garments do not wish to offend anyone. There is no harmful intent in going around wearing the burqa. Rather, many women wear it to protect themselves from the gaze of the environment and/or gain certain freedoms, including the freedom to exit their home in safety.

The burqa and niqab cause sensory deprivation and vitamin D deficiency

A curious argument in support of the burqa and niqab ban is that these forms of dress cause sensory deprivation and vitamin D deficiency from sunlight deprivation (Chesler, 2010). But

if one is worried about people's health one needs also to clarify one's position also on other unhealthy conduct such as smoking, vaping, consuming alcohol, sun bathing, artificial tan parlors, watching disturbing films that lead to sleep deprivation, professional boxing, the consumption of fatty food, and this is only a preliminary list. Should the state interfere in all these matters to enhance public health? Such excessive interference in private matters would be considered by many as unreasonable, unjust and unwarranted. I wonder what is it in the burqa that evokes such paternalistic and caring feelings while other no less disconcerting conducts are perceived as private matters.

In sum, the burqa and niqab law is unjust and unreasonable. It erodes freedom of religion, and it offends the dignity of women who voluntarily opt to wear this garment for religious reasons in order to keep their modesty intact and also to protect themselves from strangers who might make them feel uncomfortable. Those who truly care for women's rights should invest in deliberation, education and persuasion, in the free exchange of ideas with both men and women of minority cultures and in creating an environment in which all women feel safe. Those who truly care for women's rights should show respect for different conceptions of the good, for different reasoning about the place of women and sexuality in society, and for differing attitudes to dress and for what dress symbolises. While for some people the burqa is offensive, for others the mini skirt is offensive. While some people perceive the burqa as a health hazard because it is long, clumsy, cumbersome and restricts the wearer's movement (Chesler, 2010), other people perceive stiletto high-heels as a health hazard because they are uncomfortable, damaging to the spine, hips, knees, ankles and feet, and restrict the wearer's movement (Barnish and Barnish, 2016; Moore et al, 2015; *Advent Health*, n/d.).

The legislators failed to recognize the possibility that the burqa and the niqab might be a liberating force for women. Either because of community norms, or because of their own beliefs as to the appropriate appearance in public, some women who are denied the ability to dress as they wish might opt, or be forced, to remain at home (Nanwani, 2011). Thus, the ban negates Article 4 of the Declaration of the Rights of Man and the Citizen (1789) as it inflicts distinct harm on some women because of their religious beliefs while they themselves did not inflict harm on others. The ban that was designed to liberate women actually increases their isolation. Because of this reason, the European Parliament adopted a resolution that Member States should refrain from legislating against the burqa and the niqab. The European Parliament (2010) said that legal restrictions on wearing the burqa and the niqab may be justified where necessary in particular for security purposes or where public or professional functions of individuals require their religious neutrality or that their face can be seen. However, "a general prohibition of wearing the *burqa* and the *niqab* would deny women who freely desire to do so their right to cover their face."

CONCLUSION

Liberté, égalité, fraternité constitutes a symbolic motto of the Revolution. However, the gap between these ideas and their implementation in society has been widening. In practice, France has implemented the principles of *indivisibilité, sécurité, laïcité*. The new trinity has supplemented the old one and became no less prominent. At times, when the new set of principles has clashed with the old one, preference is given to the new trinity *indivisibilité, sécurité, laïcité*. This is evident when one aims to understand why the Muslim garb became such a major cause of contention in French politics and society.

The ban on the burqa and the niqab is wrong in principle, is counter-productive and illiberal. It fails to respect freedom of religion which is a basic human right. It undermines the agency of women it claims to emancipate in the name of decontextualized, sexist and colonialist conception of French, Republican autonomy. It is counter-productive because it

might exacerbate the defensive assertion of patriarchal norms (Laborde, 2008, p. 147). It is illiberal because liberal democracy invokes neutrality between different conceptions of the good. Liberal neutrality means refraining from identification with a particular conception of the good and not compelling people to act in a way that might offend their religious beliefs (Dworkin, 2013). In France, *laïcité* is a perfectionist principle that supersedes all other principles. It is asserted in the service of the Republic to maintain national cohesion and secular equality. In the Rousseauist spirit, French neutrality ‘forces people to be free’. People are not free to follow *their* religious convictions as they wish. Faced with what Will Kymlicka (2008) defines as the classical dichotomy between “integration” of the minority into the larger society and “accommodation” of the minority culture into the majority, France resolutely picked the former, employing majority coercion. However, it is reiterated that forcing people to be free against their will constitutes insensitive coercion. The boundaries of intervention in sub-culture’s internal affairs should be delineated with great caution (Kymlicka and Cohen-Almagor, 2000).

Citizens, politicians and various groups should apply reason in deciding the political conceptions that would support the comprehensive, reasonable doctrines of justice. Dispute resolution mechanisms are required to institute just, reasonable multiculturalism and to settle differences and conflicts. Deliberative democracy facilitates communication and exchange of ideas as to how and why different conceptions of the good can co-exist. First, it is essential to clarify terminology. Each form of dress should be identified by its specific name: hijab, burqa, niqab, etc. Differences between them should be explained. Second, the reasons for wearing each dress should be made known. Third, the prevalence of each dress in society should be acknowledged. Fourth, the effects of the ban on Muslim women and families should be discussed and evaluated followed by research that would shed light on the consequences of the ban. Fifth, data about instances in which people disturbed public order and caused violence while hiding behind the burqa in France (and possibly also in other places) should become public knowledge. Sixth, open debates between those endorsing and those opposing the ban should be held in public forums. Deliberations should be free of harassment and prejudice, and all parties should be substantially and formally equal, enjoying equal standing, equal ability, and equal opportunity to table proposals, offer compromises, suggest solutions, support some motions and criticize others. Principled genuine compromises should be sought (Cohen-Almagor, 2021A). Honesty is a must. What are the true motives behind the ban? Only frank conversations enable the tabling of genuine compromises. Mediators with good will in the form of human rights organisations (among others) may offer support to bridge gaps. Such public deliberations would enhance understanding of complicated issues, facilitate learning, and create a vital and inclusive pluralistic democracy where citizens feel that they can make a difference, shaping and reshaping the decision-making processes.

This article argues for reasonable multiculturalism, for the recognition that societies are composed of multiple conceptions of the good (Cohen-Almagor, 2021). Just and multiculturalism assumes that society members have good will to make living together possible and that they are willing to make reasonable accommodations. The mechanisms of compromise, tolerance and deliberative democracy are preferable to coercion as means to achieve peace and societal cohesiveness.

REFERENCES

Adonis. 2003. Life in blinkers. *Index on Censorship* 4 (October 1): 15-17.

Adrian, Melanie. 2015. *Religious freedom at risk: The EU, French schools, and why the veil was banned*. Berlin: Springer.

Advent Health. n/d. How high heels affect your body?, *Advent Health*
<http://www.thespinehealthinstitute.com/news-room/health-blog/how-high-heels-affect-your-body>

Ahmed, Nilufar. 2019. How many Muslim women actually wear the burka?, *inews* September 6, <https://inews.co.uk/opinion/comment/what-is-the-burqa-and-how-many-muslim-women-actually-wear-it-267209>

Akan, M. 2009. Laïcité and multiculturalism: The Stasi Report in context. *British J. of Sociology* **60**(2): 237-256.

Akan, Murat. 2017. *The politics of secularism: religion, diversity, and institutional change in France and Turkey*. New York: Columbia University Press.

Aldrich, Robert. 1996. *Greater France: A history of French overseas expansion*. London: Macmillan.

Akram, Susan M., and Kevin R. Johnson. 2002. Race, civil rights, and immigration law after September 11, 2001: The targeting of Arabs and Muslims. *New York University Annual Survey of American Law* **58**: 295-356.

Alouane, Rim-Sarah. 2020. France and Islam: Identity, politics, and geopolitics, *The Brookings Doha Center* (BDC) (November 30).

Ambroise-Rendu, Anne-Claude. 2012. Fraternity. In *The French republic: history, values, debates*, eds. Edward Berenson, Vincent Duclert, and Christophe Prochasson, 112-118. Ithaca: Cornell University Press.

Audard, Catherine. 2001. The French republic and the claims of diversity. In *Cultural identity and the nation-state*, eds. Carol Gould and Pasquale Pasquino, 89-108. New York: Rowman & Littlefield.

Bakht, Natasha. 2012. Veiled objections: Facing public opposition to the niqab. In *Reasonable accommodation*, ed. Lori G. Beaman, 70-108. Vancouver: UBC Press.
https://www.researchgate.net/publication/228172370_Veiled_Objections_Facing_Public_Opposition_to_the_Niqab

Barker, E. 1942. *Reflections of government*. Oxford: Oxford University Press.

Barnish, M.S., and J. Barnish. 2016. High-heeled shoes and musculoskeletal injuries: a narrative systematic review. *BMJ Open* **6**,
<https://bmjopen.bmj.com/content/bmjopen/6/1/e010053.full.pdf>

Baubérot, J. 2009. *Les laïcités dans le monde*. Paris: PUF.

Baubérot, J. 2010. The evolution of secularism in France: Between two civil religions. In *Comparative secularism in a global age*, eds. L.E. Cady and E. Shakman Hurd, 57-68. New York: Palgrave Macmillan.

BBC. 2009. French minister urges burka ban. *BBC* (August 15), [news.bbc.co.uk/1/hi/world/europe/8203290.stm](https://www.bbc.co.uk/1/hi/world/europe/8203290.stm)

BBC. 2012. France shooting: Toulouse Jewish school attack kills four. *BBC*, March 19, <https://www.bbc.com/news/world-us-canada-17426313>

BBC. 2016. Attack on Nice: Who was Mohamed Lahouaiej-Bouhlel?. *BBC*, August 19, <https://www.bbc.co.uk/news/world-europe-36801763>

BBC. 2018. Strasbourg shooting: What we know. 2018. *BBC*, December 16, <https://www.bbc.co.uk/news/world-europe-46535862>

BBC. 2018A. The Islamic veil across Europe. *BBC*, May 31, <https://www.bbc.co.uk/news/world-europe-13038095>

Benoist, C. 2020. Is France's response to Samuel Paty murder deepening divisions?, *Middle East Eye*, October 20, <https://www.middleeasteye.net/news/france-samuel-paty-murder-macron-muslim-repression>

Betts, R.F. 2005. *Assimilation and association in French colonial theory, 1890-1914*. Lincoln, NE: University of Nebraska Press.

Behindtheburqa. 2010. Behind the burqa in France. Documentary. *YouTube*, December 20. [youtube.com/watch?v=NeX9lM4vqcM](https://www.youtube.com/watch?v=NeX9lM4vqcM)

Bogain, Ariane. 2019. Terrorism and the discursive construction of national identity in France. *National Identities* 21(3): 241-265.

Bousquet, G.H. 1953. How the natives of Algeria became French citizens. *The International and Comparative Law Quarterly* 2(4) (October): 596-605.

Bowen, J.R. 2007. *Why the French don't like headscarves*. Princeton: Princeton University Press.

Breeden, A., and J. Marcus. 2016. France weighs limits of liberty, equality and citizenship. *New York Times*, March 30.

Brett, M. 1988. Legislating for inequality in Algeria: The Senatus-Consulte of 14 July 1865. *Bulletin of the School of Oriental and African Studies, University of London* 51(3): 440-461.

Britannica. 2021. The Algerian war of independence. <https://www.britannica.com/place/Algeria/The-Algerian-War-of-Independence>

Cesari, J. 2020. France and Islam: Identity, politics, and geopolitics. *The Brookings Doha Center* (BDC), November 30.

Chabal, E. 2017. From the *banlieue* to the burkini: the many lives of French republicanism. *Modern and Contemporary France* 25(1): 68-74.

Chabal, E. 2020. *France*. Cambridge: Polity.

Channel 4. 2013. France and the banning of the niqab, *YouTube*, October 24. <https://www.youtube.com/watch?v=tXHyCw0I7UQ>

Chesler, P. 2010. Ban the burqa? The argument in favor. *Middle East Quarterly* (Fall): 33-45.

Chin, R. 2017. *The crisis of multiculturalism in Europe*. Princeton, NJ: Princeton University Press.

Chrisafis, A., and K. Willsher. 2018. French supermarket siege: gendarme dies after taking place of hostage, *The Guardian*, March 24, <https://www.theguardian.com/world/2018/mar/23/french-police-called-to-trebes-supermarket-amid-hostage-reports-shootings>

Cohen-Almagor, R. 2006. On compromise and coercion. *Ratio Juris* **19**(4) (December): 434-455.

Cohen-Almagor, R. 2006A. *The scope of tolerance*. London and New York: Routledge.

Cohen-Almagor, R. 2020. Taking profound offence seriously: Freedom of speech v. human dignity, *J. of Hate Studies* **16**(1): 1–11. <https://jhs.press.gonzaga.edu/articles/10.33972/jhs.152/>

Cohen-Almagor, R. 2021. *Just, Reasonable Multiculturalism*. New York and Cambridge: Cambridge University Press.

Cohen-Almagor, R. 2021A. Genuine, principled and tactical compromise. *Studia Iuridica Lublinensia*, **30**(2): 11-31.

Cohen-Almagor, R. 2021B. Tolerating racism and hate speech: A critique of C.E. Baker's 'Almost' Absolutism. In *The Palgrave Handbook of Toleration*, ed. Mitja Sardoc. London: Palgrave.

Cohen-Almagor, R. 2021C. Coercion. *Open Journal of Philosophy*, **11**(3) (August): 386-409.

Conklin, A.L. 2000. *A mission to civilize: The republican idea of empire in France and West Africa 1895-1930*. Stanford: Stanford University Press.

De Beauvoir, S. 2010. *The second sex*. London: Vintage.

Declaration of the Rights of Man and Citizen, decreed by the National Assembly in the sessions of 20th, 21st, 23rd, 24th and 26th August, 1789, accepted by the King. https://www.open.edu/openlearn/ocw/pluginfile.php/612270/mod_resource/content/1/rightsofman.pdf

de Gouges, O. 1791. The Declaration of the Rights of Woman (September). *Liberty, Equality, Fraternity: Exploring the French Revolution*.

de Latour, S.G. 2013. Is multiculturalism un-French? Towards a neo-republican model of multiculturalism. In *Liberal multiculturalism and the fair terms of integration*, eds. Balint, P., and Sophie Guérard de Latour. 139-156. Basingstoke: Palgrave Macmillan.

Delphy, C. 2015. Feminists are failing Muslim women by supporting racist French laws, *The Guardian*, July 20, <https://www.theguardian.com/lifeandstyle/womens-blog/2015/jul/20/france-feminism-hijab-ban-muslim-women>

dw news. 2016. Poll: One in four French Muslims backs burqa. *dw news*, September 18, <https://p.dw.com/p/1K4W6>

Dworkin, R. 2003. Terror and the attack on civil liberties. *New York Review of Books* **50**(17) (November 6): 1-20

Dworkin, R. 2013. *Religion without God*. Cambridge, Mass: Harvard University Press.

European Parliament. 2010. Recommendation and Resolution no. 1743, Islam, Islamism and Islamophobia in Europe, June 23, para 16, <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17880&lang=en>

Fanon, F. 1965. *A dying colonialism*. New York: Grove Press.

Faucher, F., and L. Boussaguet. 2018. The politics of symbols: Reflections on the French government's framing of the 2015 terrorist attacks. *Parliamentary Affairs* **71**(1) (January): 169–195.

Fayard, N., and Y. Rocheron. 2009. *Ni Putes ni Soumises: A Republican Feminism from the Quartiers Sensibles, Modern & Contemporary France* **17**(1): 1-18.

Feinberg, J. 1985. *Offense to others*. New York: Oxford University Press.

Fernando, M.L. 2009. Exceptional citizens: Secular Muslim women and the politics of difference in France. *Social Anthropology/Anthropologie Sociale* **17**(4): 379–392.

Fraleigh, A. 1967. The Algerian war of independence. *Proceedings of the American Society of International Law at Its Annual Meeting (1921-1969)* **61** (April 27-29): 6-12.

Fredette, J. 2015. Examining the French hijab and burqa bans through reflexive cultural judgment. *New Political Science* **37**(1): 48-70.

Gopalan, S. 2010. Behind the burqa. *New York Times*, January 27, <http://www.nytimes.com/2010/01/28/opinion/28iht-edgopalan.html>

Grayling, A.C. 2010. *Liberty in the age of terror: A defence of civil liberties and enlightenment values*. NY and London: Bloomsbury.

Grosfoguel, R. 2011. Decolonizing post-colonial studies and paradigms of political-economy: Transmodernity, decolonial thinking, and global coloniality. *Transmodernity* **1**(1). <https://escholarship.org/uc/item/21k6t3fq>

Guardian. 2017. French police officer killed in shooting on Champs Élysées. *The Guardian*, August 21, <https://www.theguardian.com/world/2017/apr/20/paris-shooting-policeman-killed-on-champs-elysees>

Guerlac, O. 1908. The separation of church and state in France. *Political Science Quarterly* **23**(2): 259-296.

Guessous, H. 2019. Nearly half of France's Muslim population experience discrimination. *Morocco World News*, November 7, <https://www.moroccoworldnews.com/2019/11/286313/france-muslim-population-discrimination/>

Haarscher, G. 2010. Secularism, the veil and 'reasonable interlocutors': Why France is not that wrong. *Penn State International Law Review* **28**(3): 367–382.

Heine, S. 2009. The hijab controversy and French republicanism: Critical analysis and normative propositions. *French Politics* **7**(2): 167–193.

Hennette Vauchez, S. 2017. Is French *laïcité* still liberal? The republican project under pressure (2004–15). *Human Rights Law Review* **17**(2) (June): 285–312.

Horne, A. 2006. *A savage war of peace: Algeria 1954-1962*. New York: New York Review of Books.

Hunter-Henin, M. 2012. Why the French don't like the burqa: *Laïcité*, national identity and religious freedom. *International Comparative and Law Quarterly* **61** (August): 1–27.

Hunter-Henin, M. 2020. *Why religious freedom matters for democracy*. Oxford: Hart.

Idriss, M.M. 2006. *Laïcité* and the banning of the 'hijab' in France. *Legal Studies* **25**(2) (April): 260-295.

International Covenant on Civil and Political Rights (1966), <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

Irish, J., and H. Ould Ahmed. 2012. France, Algeria inch closer, fifty years on, *Reuters*, July 3, <https://www.reuters.com/article/us-france-algeria-independence-idUSBRE8620QA20120703>

Jennings, J. 2013. *Revolution and the republic: A history of political thought in France since the eighteenth century*. Oxford: Oxford University Press.

Jennings, J. 2000. Citizenship, republicanism and multiculturalism in contemporary France. *British Journal of Political Science* **30**(4) (October): 575–598.

Journeyman Pictures. 2016. Was France right to ban the burqa?. Documentary, *YouTube*, July 7 (no longer available).

Journeyman Pictures. 2019. The burqa battle. Film transcript. https://www.journeyman.tv/film_documents/4815/transcript/

Kepel, G. 2016. *La Fracture*. Paris: Gallimard.

Khan, L.A. 2021. French secularism in crisis. *Jurist*, January 1.

Kimble, S.L. 2006. Emancipation through secularization: French feminist views of Muslim women's condition in interwar Algeria. *French Colonial History* 7: 109-128.

Knapp, A. 2020. *Charles de Gaulle*. London: Routledge.

Knapp, A., and V. Wright. 2006. *The government and politics of France*. London: Routledge, 5th edition).

Kymlicka, W. 2008. The internationalization of minority rights. *International Journal of Constitutional Law* 6(1): 1-32.

Kymlicka, W., and R. Cohen-Almagor. 2000. Ethnocultural minorities in liberal democracies. In *Pluralism: the philosophy and politics of diversity*, eds. M. Baghrarian and A. Ingram, 228-250. London: Routledge.

Laborde, C. 2008. *Critical republicanism: The hijab controversy and political philosophy*. Oxford: Oxford University Press.

Laborde, C. 2017. *Liberalism's religion*. Cambridge, MA: Harvard University Press.

La Commission de la Nationalité, une instance singulière. 1988. (Entretien avec Jacqueline Costa-Lascoux), https://www.persee.fr/doc/remi_0765-0752_1988_num_4_1_1156

Le Grand, S. 2013. The origin of the concept of laïcité in nineteenth century France. In *Religion and secularity: Transformations and transfers of religious discourses in Europe and Asia*, ed. Marion Eggert and Lucian Hölscher (eds.), 59-76. Leiden: Brill.

Lévy, Bernard-Henri. 2011. Why I support a ban on burqas. *Huffington Post*, May 25, https://www.huffpost.com/entry/why-i-support-a-ban-on-bu_b_463192?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLnNvbS8&guce_referrer_sig=AQAAADVk33Nq-xwsMeFfFRwwAM0m2vf06nBUr-u7LRzUgtZMxf_srKECSckQpuOaL_N8Lx7tEySvhbqFuFStrHGWRwF2SAarN_N73TvhRldV6l1-Tjta0MGkqrz_CJFv-wanl7JxWPOeVLot1nINGXbK5Fg7Yr8pBHbWvOvhyiSAs3-

Levy, J.T. 2014. *Rationalism, pluralism and freedom*. Oxford: Oxford University Press.

Linton, M. 2015. *Choosing terror: Virtue, friendship, and authenticity in the French revolution*. Oxford: Oxford University Press.

Lubin, A. 2021. *Never-ending war on terror*. Berkeley: California University Press.

MacKinnon, C. 1987. *Feminism unmodified*. Cambridge, Mass.: Harvard University Press.

MacKinnon, C. 1993. *Only words*. Cambridge, Mass.: Harvard University Press.

MacKinnon, C. 2006. *Are women human?: And other international dialogues*. Cambridge, Mass.: Harvard University Press.

- Maillard, D. 2010. The Muslims in France and the French model of integration. *Journal of Middle Eastern and Islamic Studies (in Asia)* **4**(4): 1-24.
- May, P. 2016. French cultural wars: public discourses on multiculturalism in France (1995–2013). *Journal of Ethnic and Migration Studies* **42**(8): 1334-1352.
- McAuley, J. 2020. France mandates masks to control the coronavirus. Burqas remain banned. *The Washington Post*, May 10, https://www.washingtonpost.com/world/europe/france-face-masks-coronavirus/2020/05/09/6fbd50fc-8ae6-11ea-80df-d24b35a568ae_story.html?utm_campaign=wp_todays_worldview&utm_medium=email&utm_source=newsletter&wpisrc=nl_todayworld
- McCall, L. 2005. The complexity of intersectionality. *Signs* **30**(3): 1771-1800.
- McGhee, D. 2008. *The end of multiculturalism*. Maidenhead: Open university Press.
- McGoldrick, D. 2006. *Human rights and religion: The Islamic headscarves debate in Europe*. Oxford and Portland: Hart: 36-37.
- Miriana Hebbadj v. France*. 2018. Human Rights Committee. CCPR/C/123/D/2807/2016 (October 17).
- Morgan, K.J. 2017. Gender, right-wing populism, and immigrant integration policies in France, 1989–2012. *West European Politics* **40**(4): 887-906.
- Montesquieu. 2001. *The spirit of laws*. Kitchener. Ontario: Batoche Books.
- Moore, J.X., B. Lambert, G.P. Jenkins, et al. 2015. Epidemiology of high-heel shoe injuries in U.S women: 2002 to 2012. *J. of Foot and Ankle Surgery* **54**(4): 615-619.
- Motha, S. 2007. Veiled women and the affect of religion in democracy. *Journal of Law & Society* **34**(1) (March): 139-162.
- Nanwani, S. 2011. The burqa ban: An unreasonable limitation on religious freedom or a justifiable restriction? *Emory International Law Review* **25**: 1431-1475.
- Negrin, L. 2008. *Appearance and identity*. New York: Palgrave Macmillan.
- Nossiter, A., and L. Alderman, 2015. After Paris attacks, a darker mood toward Islam emerges in France. *New York Times*. November 16, <https://www.nytimes.com/2015/11/17/world/europe/after-paris-attacks-a-darker-mood-toward-islam-emerges-in-france.html>
- Okin, S.M. 1999. Is Multiculturalism Bad for Women?, in Joshua Cohen, Matthew Howard, and M.C. Nussbaum (eds.), *Is Multiculturalism Bad for Women?* 9-24. Princeton: Princeton University Press.
- PBS NewsHour. 2015. Resentment grows between Christians and Muslims in France, YouTube, January 9.

- Pipes, D. 2018. Niqabs and burqas as security threats, *Lion's Den* (October 12), <http://www.danielpipes.org/blog/2002/03/niqabs-and-burqas-as-security-threats>
- Piser, K. 2018. A new plan to create an 'Islam of France', *The Atlantic*, March 29, <https://www.theatlantic.com/international/archive/2018/03/islam-france-macron/556604/>
- Riegel, R.E. 1963. Women's clothes and women's rights. *American Quarterly* **15**(3) (Autumn): 390-401.
- Rousseau, J-J. 1755. *Discourse on inequality*, translated by G.D.H. Cole, <https://aub.edu.lb/fas/cvsp/Documents/DiscourseonInequality.pdf879500092.pdf>
- Rousseau, Jean-Jacques. 1762. *Emile*, www.gutenberg.org/files/5427/5427-h/5427-h.htm
- Rousseau, J-J. 2017. *The social contract*. Jonathan Bennett edition: 16, <https://www.earlymoderntexts.com/assets/pdfs/rousseau1762.pdf>
- Rubin, A.J., and A. Breeden. 2017. France remembers the Nice attack: 'We will never find the words', *New York Times*, July 14, <https://www.nytimes.com/2017/07/14/world/europe/nice-attack-france-bastille-day.html>
- Sonia Yaker v. France*. 2018. Human Rights Committee, CCPR/C/123/D/2747/2016 (December 7).
- Spohn, U. 2013. Sisters in disagreement: The dispute among French feminists about the 'burqa ban' and the causes of their disunity. *Journal of Human Rights* **12**(2): 145-164.
- Stephen, J.F. 1967. *Liberty, equality, fraternity*. Cambridge: Cambridge University Press.
- Tackett, T. 2015. *The coming of the terror in the French revolution*. Cambridge, MA: Harvard University Press.
- Thomas, M. (ed.). 2011. *The French colonial mind: Mental maps of empire and colonial encounters*. Lincoln: Nebraska University Press.
- Troper, M. 2000. French secularism, or laïcité. *Cardozo Law Review* **21**: 1267-1284.
- Troper, M. 2009. Sovereignty and laïcité. *Cardozo Law Review* **30**(6): 2560-2574.
- Troper, M. 2016. Republicanism and freedom of religion in France. In *Religion, secularism, and constitutional democracy*, eds. Jean L. Cohen, and Cécile Laborde, 316-337. New York: Columbia University Press.
- UN News. 2018. France: New terrorism laws may undercut human rights and freedoms, says UN expert. *UN News*, May 25, <https://news.un.org/en/story/2018/05/1010721>
- Vickstrom, E.R. 2019. *Pathways and consequences of legal irregularity*. Cham: Springer.
- Wallach Scott, J. 2005. Symptomatic politics: The banning of Islamic head scarves in French

public schools. *French Politics, Culture & Society* **23**(3) (Winter): 106-127.

Wallach Scott, J. 2007. *The politics of the veil*. Princeton, NJ: Princeton University Press.

Wallach Scott, J. 2017. *Sex and secularism*. Princeton, NJ: Princeton University Press.

Weil, P. 2004. A nation in diversity: France, Muslims and the headscarf. *Open Democracy* (March 25), https://www.opendemocracy.net/en/article_1811jsp/

Weil, P. 2009. Why the French laïcité is liberal. *Cardozo Law Review* **30**(6): 2699-2714.

Willms, J. 2004. France unveiled: making Muslims into citizens?. *Open Democracy* (February 26), https://www.opendemocracy.net/en/article_1753jsp/

Willsher, K. 2018. France's history of terror: Islamic extremist attacks since 2015. *The Guardian* March 23, <https://www.theguardian.com/world/2018/mar/23/heroic-gendarme-swapped-places-with-hostage-in-french-attack>

World Atlas. 2021. Which countries do French immigrants originate from?, <https://www.worldatlas.com/articles/where-do-french-immigrants-come-from.html>

World Heritage Encyclopedia. 2021. French colonial empire. self.gutenberg.org/articles/eng/French_colonial_empire

Young, I.M. 2008. Structural injustice and the politics of difference. In *Intersectionality and beyond: Law, power, and the politics of location*, ed. E. Grabham et al., 273-298. Abingdon and New York: Routledge-Cavendish.