

Uncovered - The French Hijab Ban and The Freedom of Choice

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France is home to the largest Muslim minority in Western Europe, however, only 2,000 Muslim women of the five Million Muslims living in France cover their head and face as part of their religious practices (BBC News, 2018). This could be the result of the country's laws restricting women and girls to wear veils in public. Underpinned by a secular agenda and justified by the fight against gender inequality, French laws regulate the physical appearance of Muslim women. This policy review gives a brief overview of the legal developments in France, highlights related concerns such as the reproduction of colonial patterns, the discrimination and paternalisation of women and girls, and concludes with three policy recommendations to overcome them.



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The Hijab in France

Many different types of face and head coverings exist for women around the globe as part of their religious practices. The hijab is worn by Muslim women and refers to a headscarf covering head and hair, in contrast to a burka or niqab which is also covers women's faces (BBC, 2018). The hijab has a long history of controversy in France and is subject to an evolving set of laws, briefly outlined below.

Muslim Women's Cloths in the Public Space

More than thirty years ago, in 1989, Muslim women's physical appearances were discussed for the first time in France, when three young girls were denied access to a public school due to wearing headscarves (Le Parisien, 2019). The concept of *laïcité*, referring to the clear separation of state and church, is a central motive of French lawmaking and illustrates the endeavors to create a unified French social and cultural identity. Consequently, Muslim headscarves were among other religious symbols banned from French public schools in 2004. Six years later in 2010, full-facial coverings such as the niqab were banned entirely from all public spaces, such as public transportation and streets (Time.com, 2021). This national law made France the first European country to implement a ban of Muslim women's clothing in the public sphere, and a government campaign highlighted that the French Republic "lived with an uncovered face". (Hancock, 2015: 1).

In 2014, the law was challenged in front of the European Court of Human Rights by a young French woman who claimed that the ban represents a violation of her freedom of religion and expression. However, the court upheld the ban arguing that the lawmakers' measures possessed "an objective and reasonable justification" (European Court of Human Rights, 2018: 8). Recently, the ongoing Covid-19 pandemic sparked a new controversy of hypocrisy regarding the face covering ban, since the government mandated everyone to wear mouth and nose coverings in public spaces to fight the virus, while meanwhile, wearing a niqab remains prohibited (Time.com, 2021). In cases of non-compliance, women face a penalty of up to 150 € and a citizenship instruction (BBC News, 2018).

Recent Hijab Ban Amendment

Most recently, an amendment of the hijab ban was approved by the French Senate, according to which girls under 18 are no longer allowed to wear a hijab in public spaces. The amendment was justified to prevent parents from "imposing any dogmas on their children," and to "stop the wearing by minors of any outfit that would mean the inferiorization of women" (Public Senat, 2021). The previous version of the hijab ban already mandated students and civil servants to not wear head and face coverings, and this was now extended to Muslim mothers taking part in extracurricular activities (Washington Post, 2021). The bill's aim is said to further strengthen France's secular system (Aljazeera, 2021).



*In France, girls are no longer allowed to wear headscarves in public spaces, by Akela.
Source: <https://www.pexels.com/de-de/foto/flacher-fokus-fotografie-des-madchens-448877/>*

What Leaving No Choice Means

France's approach to regulating Muslim women's physical appearance in the public space intends to enforce the country's concept of a secular state, and aims to ensure the equality of all genders. However, the following makes it clear that the French hijab ban fails its intention and instead enables discrimination, paternalism, and the reproduction of colonial patterns.

Discrimination

In 2019, women were subjected to 70% of Islamophobic hate speech and acts in France (Time.com, 2012). This might be connected to the hijab ban systematically creating a narrative of oppressed and "exotic" women wearing head or face coverings. Furthermore, the recent amendment stands in contradiction to international human rights provisions that ensure the "liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions" (United Nations Human Rights Office of the High Commissioner, 2011: 26).

Paternalism

The law represents an attempt to regulate and govern women's bodies, which is rooted in a paternalistic mindset that prevents women from fully enjoying their right to self-determination and free choice. The recent amendment prohibiting underage girls from wearing head coverings appears to be even more disturbing in the light of France's recent law setting the legal age of sexual consent at 15 years (Washington Post, 2021). Thus, the state recognises young girls' maturity to decide on their sexual activity, yet not on their physical appearance. The fact that the rules aim to enhance women's safety in the public sphere enforces a harmful narrative, where instead of predators being pursued and brought to justice, women bear the responsibility for violence against them according to their physical appearance.

Colonialist Patterns

The state justifying the hijab ban to liberate and empower young women is especially controversial when bearing in mind France's long colonial history. Essential to colonialising behaviour is the belief of bringing superior cultural identity, values and language to colonised populations in need of liberation and improvement. Describing Muslim women constantly as oppressed not only victimizes them and denies their agency, but also reproduces the moral justification of colonial thinkers (Time.com, 2021). In practice, the French hijab ban defines a certain image of citizenship, explicitly excluding Muslim women wearing face and head coverings (Hancock, 2015).



France approaches citizenship with the idea of a unified cultural identity excluding women who want to wear head and face covering clothes, by Skitterphoto.

Source: <https://www.pexels.com/de-de/foto/architektur-baume-bekannt-beruhmt-597049/>

Recommendations

To truly fulfil the lawmakers' intent to empower Muslim women in France, three main policy recommendations should be implemented.

- **Agency and the Freedom of Choice**

If the aim of French laws is to empower women and provide them with more agency, policymakers need to admit that instead of adding another layer of rules and political interference on women's appearances, they should be provided the freedom to choose whatever they want to wear. Gender equality will not be achieved by further paternalising, criminalizing and discriminating the way women want to appear in public. The most effective way to realise this is by abandoning any policy and law that denies women the agency to decide on her body and physical appearance.

- **Integration and Education**

Furthermore, integration policies are underpinned by the idea of a unified French cultural identity, and so far, France has been choosing an assimilation approach when it comes to integrating migrants. This approach is also reflected in the hijab ban laws. Instead of reproducing colonial patterns and imposing values in a way that governs women's bodies, policymakers should invest in dogma-free education surrounding gender equality, sexism, and the freedom of choice. Workshops, training, and school sessions should create a sentiment that ensures women and girls have the freedom to choose their own way of appearing in public—be it with a veil or not. Instead of teaching young girls that there is only one way of dressing in public, they should have the chance to form their own identity, opinion, and preferences.

- **Reduce Hate Speech directed at Muslim Women**

Lastly, France should choose a non-discriminatory and non-harmful approach to policy making. The fact that head and face coverings are banned from public spaces associates them with stereotypes of the forbidden and foreign, making women increasingly more subject to discrimination, hate speech, and hateful acts. To increase public safety for women, policy makers should directly enhance policy answers to respond to predators of hate speech and acts, rather than subject women to laws regulating their appearance.

REFERENCES

Aljazeera (2021), '*Law against Islam*': French vote in favour of hijab ban condemned, Available at: <https://www.aljazeera.com/news/2021/4/9/a-law-against-islam>, (Downloaded: 30 August 2021).

BBC (2018), *What's the difference between a hijab, niqab and burka?*, Available at: <https://www.bbc.co.uk/newsround/24118241>, (Downloaded: 30 August 2021).

BBC News (2018), *The Islamic Veil across Europe*, Available at: <https://www.bbc.com/news/world-europe-13038095>, (Downloaded: 30 August 2021).

European Court of Human Rights (2018), *Factsheet - Religious Symbols and Clothing*, Available at: https://www.echr.coe.int/documents/fs_religious_symbols_eng.pdf, (Downloaded: 30 August 2021).

Hancock (2015), *The Republic is lived with an uncovered face' (and a skirt): (un)dressing French citizens, Gender, Place & Culture*, 22:7, 1023-1040, Available at: <https://www.tandfonline.com/doi/ref/10.1080/0966369X.2014.958061?scroll=top>, (Downloaded: 30 August 2021).

Le Parisien (2019), *Creil, 1989: première affaire de voile en France*, Available at: <https://www.leparisien.fr/podcasts/code-source/creil-1989-premiere-affaire-de-voile-en-france-11-10-2019-8171220.php>, (Downloaded: 30 August 2021).

Public Senate (2021), *L'interdiction du port du voile par les mineures dans l'espace public votée par le Sénat*, Available at: <https://www.publicsenat.fr/article/parlementaire/l-interdiction-du-port-du-voile-par-les-mineures-dans-l-espace-public-votee>, (Downloaded: 30 August 2021).

Time.com (2021), *Who Gets to Wear a Headscarf? The Complicated History Behind France's Latest Hijab Controversy*, Available at: <https://time.com/6049226/france-hijab-ban/>, (Downloaded: 30 August 2021).

United Nations Human Rights Office of the High Commissioner (2011), *Rapporteur's Digest on Freedom of Religion or Belief*, Available at: <https://www.ohchr.org/Documents/Issues/Religion/RapporteursDigestFreedomReligionBelief.pdf>, (Downloaded: 30 August 2021).

Washington Post (2021), *France's latest vote to ban hijabs shows how far it will go to exclude Muslim women*, Available at: <https://www.washingtonpost.com/opinions/2021/04/21/france-hijab-ban-vote-exclusion/>, (Downloaded: 30 August 2021).

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