Banning the Hijab in France: Problems of Secularism

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Introduction

Over the period of a century, the issue of the hijab has been dominating public opinion not only among Muslims, but also among followers of other religions. The issue has reached other non-Islamic countries, and the hijab--this little piece of cloth in triangular form—has turned into an issue that has preoccupied public opinion in the twentieth century and till today. In fact, the hijab became a political issue during the liberation of Algeria, and turned into an intellectual controversy among Muslim scholars that has divided its supporters and opponents.

The definition of the hijab: perspectives in the three monotheistic religions

From the point of view of linguistics and Islamic jurisprudence, the hijab (Al-Hijab, plural Hujub) is defined as follows: linguistically, its meaning varies between covering and obstructing, that is why a cover that separates two things is called a hijab since it obstructs vision between them. A woman's veil is called a hijab because it covers women from being seen, and prevents men from seeing or looking at women. The word hijab appears in the Qur'an in eight locations, all of which revolve around this sense, i.e. the meaning of covering and obstruction.

The hijab in the Islamic religion:

God Almighty said in Surat Al-A'raf [Al-A'raf: 46]: “And between them shall be a veil,” i.e., between them is a wall that prevents vision, or a barrier that obstructs vision. God Almighty also said about Mary [Maryam: 17]: “She placed a screen (to screen herself) from them, peace be upon her [i.e., Mary covered herself with a veil from the eyes of men]. Allah Almighty further said [Al-Ahzab: 53]: “And when ye ask of them (his wives) anything, ask it of them from behind a screen” [i.e., from behind a barrier, obstruction or screen that prevents others seeing them]. Thus, the meaning of the hijab revolves around covering and obstruction, hence the juridical meaning in Islam of these denotations of the Muslim woman’s hijab signifies that which obstructs the Muslim woman from the view of men who are strangers, and has multiple references: to the image of the body and that of the face, therefore, there is the hijab of bodies and the hijab of faces. A woman is to conceal herself from men who are strangers in her house, and use thick curtains inside the house, and a woman is to cover herself in clothing from head to foot if she leaves her home for an important purpose, or for religious or secular purposes, since this is permissible for her and she incurs no sin if she comes out under the conditions of hijab according to Islamic code.
Islam did not impose such controls on Muslim women in dress, adornments, and relationship to men except for their preservation and protection from frivolous men, and so that Muslim women would be like a protected jewel or a carefully hidden pearl that could not be reached by wicked hands. The words of God appear in the Surat Al-Nur (Verse 31): “And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what (must ordinarily) appear thereof; that they should draw their veils over their bosoms and not display their beauty except to their husbands, their fathers, their husband's fathers, their sons, their husbands' sons, their brothers or their brothers' sons, or their sisters' sons, or their women, or the slaves whom their right hands possess, or male servants free of physical needs, or small children who have no sense of the shame of sex; and that they should not strike their feet in order to draw attention to their hidden ornaments. And O ye Believers! Turn ye all together towards God, that ye may attain Bliss.”

Also, God Almighty says [Al-Ahzab: 53]: “And when ye ask (his wives) for anything ye want, ask them from before a screen: that makes for greater purity for your hearts and for theirs. Nor is it right for you that ye should annoy God's Messenger, or that ye should marry his widows after him at any time. Truly such a thing is in God's sight an enormity.” There is also the words of God [Al-Ahzab: 59]: “O Prophet, tell your wives and your daughters and the believing women, to draw their veils close round them. That is more proper, so that they may be recognized and not molested and Allah is Forgiving, Most Merciful.”

These are the verses in which wearing a hijab was commanded, and which clearly suggest the requirement of women concealing themselves from men, yet some scholars have also said that these verses are specific to the wives of the Prophet (pbuh) alone. However, if the verses were specific to the wives of the Prophet (pbuh), they are is general in terms of their provisions. If we understood all of the commands of the Qur’an as such, then if a specific command was given to the wives of the Prophet (pbuh), we would interpret it to mean it is specific to the wives of the Prophet alone, and if a specific command was given to the Prophet (pbuh), it would suggest it is specific to the Prophet alone and not the rest of the believers. If this were the case, we would have contradicted most of the commands and prohibitions of the Qur’an.3

We might think that the hijab is obligatory for Muslim women only, yet in actuality it is obligatory for women in all monotheistic religions, since believing in religions other than Islam does not make the veil less relevant in its context and goals, which are based on the elevation of the human spirit, the protection of women, the preservation of society from moral trespasses, and the controlling of [male] desire.

The veil in Judaism:
In a study entitled *The Provisions of Head Covering for the Jewish Woman* by Ilan Cohen, cited by Huda Darwish, the author surveys Jewish religious dictates concerning the head covering of Jewish women and their commitment to piety. The study deals with opinions concerning the head covering in the Talmud, the Midrashim, the Mishnah, the Algarim, as well as other texts and the rulings of later scholars and contemporary commentators in the present mom concerning obligations of women to abide by certain behaviors in public regarding clothing, appearance, and manifestations of piety.
The veil in Christianity:
I would argue the hijab is obligatory in the Christian canon via several pieces of evidence and texts that urge the wearing of the veil, the avoidance of adornments, the necessity of being respectable, and the devotion of time to managing home and family. One such text is Paul’s epistle [to Titus] in which he advises women to be sober, chaste, kind, work at home, and live in subjection to their own husbands. The word “veil” is mentioned in the Bible 23 times, calling upon women to commit to all that maintains her chastity and respectability. There are religious sanctions in Christianity against baring the head in prayer, affirming that the hijab in Christianity brings joy to the angels.

Hoda Darwish asserts that views concerning the head covering have been consistent among the different religions, yet with the arrival of the modern era, the agreed-upon view of women’s veil in old beliefs and among monotheistic religions became problematic, since modernity brought new and contradictory intellectual currents. The banners of secularism and its values were in conflict with religious values and the view of the veil started to change radically, gradually transforming the veil from a symbol of modesty and chastity to a symbol of restrictions curbing freedom and of backwardness. Thus did the image of the veil become inverted, as asserted by Mohammad Khalifa Hassan, a historian of religions at Cairo University’s Faculty of Arts; he writes in the introduction to his book that with the Islamic world falling under the influence of Western secularism, the issue of the hijab has become an “Islamic problem.” Since the modern era, Islamic thought has been debating the hijab issue without reaching a definitive solution.

The hijab in France and its relationship to secularism

The hijab controversy in France, which emerged in 1989, marks the start of direct contact of the French with Islam in the street, the school, and the university. The French writer and journalist, Thomas Deltombe, explains that the French media confused the Iranian word "chador," due to its focus on the Iranian revolution, with the "hijab" in Sunni communities. Also, others in France called it "Islamic garb" or "Qur'anic garb." This debate about the hijab was intensified in the French Parliament and the media in October 1989, when three Muslim girls were barred from entering a French school.

Deltombe notes the resurgence of the hijab issue between 2003 and 2004 in the media, especially following demonstrations opposing the expulsion of girls wearing hijab from schools. The result was that debates about Islam and the hijab in the media became “more radical and extremist,” to the extent that in October 2003, a TV program (on channel TF1) aired a scene of veiled Christian girls wearing their church uniforms in a Catholic school in Marseille, and a scene revealing a cross hanging on the wall of another school to assert that "secularism exists in France," without asking why French secularism rejects the right of Muslim women to wear the hijab. Demonstrations took place globally against the decision to ban the hijab, including in French, foreign and Arab cities. These demonstrations demanded freedom of choice, which constitutes the basis of democracy in these countries; that is, how are women being banned from choosing the hijab? Banning the hijab violates the most basic rules of the freedom to practice religious rituals.
The Stasi Committee report:

Bernard Stasi was the head of the French Presidential Committee for the application of the principle of secularization in the French Republic. The Committee was comprised of scientists and intellectuals specialized in civil society issues, including the intellectual Mohammed Arkoun, who justified the involvement of the committee in the issue of banning religious symbols so that religious friction is eliminated from educational institutions, and to make the school a peaceful place for education. Stasi also claimed that some Islamist organizations in the country constituted a challenge to the basic values of modern France. A day before submitting his report to the French President Jacques Chirac, Stasi asserted the importance of enacting a law that refused the right of Muslim women to wear hijab in [public] schools and governmental workplaces. He conceded that the enactment of such a law would not solve all the problems of France, yet he claimed that this measure was important to preserve the identity of the country, warning that France faced a challenge to its unique identity and character. He also claimed that there were Islamist groups that would undoubtedly seek to test the extent of resistance of the Republic to what he called the dangers that faced its identity; he said, “These groups do not want France to remain France,” and warned that the authorities would not tolerate those whom he alleged sought to undermine the values of the Republic, foremost among them the principle of secularism.

Stasi admitted that France would not succeed in integrating millions of its immigrants, many of whom belong to its former colonies in north [Africa], noting that these immigrants feel that they are not fully French and that they are victims of French racism. He added that in such a climate, it is not surprising that immigrants would take refuge in their local communities and express their religious identity. The Stasi report recommended the enactment of a law banning the right of Muslim women to wear the hijab—and also the wearing of large Jewish skullcaps and large crosses—in public schools, hospitals and other government institutions, claiming that this was the best way to ensure the secularism of the state and society, and equality among the French, without regard to their religious affiliations. The committee also recommended that the Islamic Eid al-Adha and the Jewish Yom Kippur holidays be considered official holidays, like Christmas for Christians.

Jacques Chirac, in his speech on December 17, 2003, distinguished between religious symbols, and classified them in two categories as a prelude to distinguishing between them in the law. He described the hijab [in French] as “ostensible,” which is an adjective that is laden with negative connotations in the French language; some of its meanings are “alleged,” “false,” “boastful,” “prideful,” and “ostentatious.” It seems that he intended thus to confer the negative connotations on the hijab, in order to justify the attack on the freedom of Muslim women. Yet in his speech, Chirac described the cross as “discrete,” [in French] which has many connotations, all of which are positive in the context of the speech; some of the meanings or connotations of this word are: “conservative,” “sagacious,” “prudent,” “reticent,” “cautious,” “keen,” and “inconspicuous”. The intent of this description was to preserve the [display of the] cross, since his objection to the “large” cross was due to the fact that no one would in any case carry a 2-meter cross on one’s shoulder to school.

On March 3, 2004, the law banning religious symbols, including the Islamic hijab, was passed in France with a majority of 276 votes for and 20 against. This consensus reveals the general
intellective and psychological state of mind of French society in its vast majority, which refuses to have schools turned into an arena of conflict over religious symbols, and the desire to preserve religious neutrality and defend the principle of secularism, although many voices viewed the law as a targeting of the hijab in particular. On the last day of the Senate debate, Jean-Pierre Raffarin, the French Prime Minister, declared that the Government's view of secularization “is not antagonistic to religions, each of which is entitled to express itself provided it respects the laws of the Republic inside the school premises.”

The divergence of opinion between opponents and supporters:

The opponents of the project opposing the hijab, who belong to various currents, from clergy to the radical left and environmentalists, consider that the law could escalate tensions between religious groups in France, which has the largest Muslim community in Europe (between five and seven million people) and the largest Jewish community (600,000-700,000 people). Their concerns were also that this law would intensify the isolation of Muslims in France, who might turn to establishing their own schools to preserve the modesty of their daughters, and to enable them to wear the hijab and preserve the dictates of Islam.

The [French] right, which constituted a majority in the parliamentary debates that began on 3 February, 2012, had obtained the support of the Socialists to adopt this law, a part of the national debate between supporters of maintaining secular traditions and those who call for tolerance of other cultures in expressing themselves.

Religious human rights:

In the Declaration of the Rights of Man and of the Citizen of 1789, from the French Revolution, Article 10 states the following: "No one may be disquieted on account of his opinions, including his religious views, as long as the manifestation of such opinions does not interfere with the public order established by Law." The phrase, "including his religious views," imbues the article with a spirit of concern for the protection of men and women from religious tyranny more than just concern for the securing of religious freedom.

This article does not confer priority on the freedom of religion but it makes religious freedom conditional on not interfering with “public order and law,” which means that sovereignty remains in the law. Thus we understand how Article 10 of the Declaration of the Rights of Man and of the Citizen is a legal basis of French secularism as enunciated in the 1905 law and the 1946 constitution, as well as later the 1958 constitution, which is the constitution of the current (Fifth) Republic. There is a prominent focus on the Declaration of the Rights of Man and of the Citizen in the various curricula of French schools, starting from the primary level.

The Universal Declaration of Human Rights (1948) constitutes a new rights-based approach, which differs from the French Declaration of the Rights of Man and of the Citizen, and tends to emphasize the endorsement of complete religious freedom without any conditions. Article 18 of the Universal Declaration of Human Rights states that: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his
religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”  

Is the hijab ban in France related to secularism?

Mohammed Shanqeeti argues that the problem of the hijab in France is not relevant to the issue of secularism, even if Jacques Chirac and other French leaders had packaged it as such, but rather is the fruit of the fanaticism about French culture and heritage, and expresses a flagrant bias by one religion against another, and one identity against another, which in fact contradicts the essence of secularism. The French Larousse dictionary defines secularism [laïcité] as “the separation of church and state” (séparation de l'Eglise et de l'Etat), which is the most accurate definition, because it places the word in its cultural and social context and reveals its temporal and spatial limits, in contrast to the vague definition used by semi-intellectuals in the Arab world, when they strip secularism from its historical context and endow it with a universal character, and define it as “separation of religion and state.”

Here, I would point out that “the church” has specific institutional connotations which the more general “religion” does not.

In his analysis, Mohammed Yahya argues that France’s decision to ban the hijab in public schools and governmental institutions is due to a rigid application of the principles of secularism, which France apparently discovered existed after about a century of formal application. This myth of state neutrality was echoed by the French government itself, in the person of the President of the Republic, Jacques Chirac, and was reaffirmed by some others, such as Sheikh Al-Azhar, who declared that France is within its right to ban the hijab since it is a non-Muslim country and secular state, reiterating the French argument that secularism is neutral toward religions and does not differentiate among them.

For Stasi, secularism is openness toward others, the spirit of tolerance, freedom of belief and pluralism. Stasi characterizes the wearing of the hijab as an objective demonstration of the compliance of Muslim women. They wear it because their parents, adult siblings, and religious groups, compel them to do so. According to him, if they do not do it, it is an insult. But in my view it is also possible for Muslim girls to wear it to show their independence.

Authentic Islam and “French Islam”:

Hassan Al-Sarrat indicates that Islam is not specifically Saudi, Pakistani, Moroccan, or Ugandan, and not even Arab, African, European, American, or Asian. It is a religion that has no nationality, according to the Qur’an and the Prophet’s proclamation, and the consensus of Islamic scholars. It is, then, a universal and global religion. It is true that it adapts to the cultural, social and political environment where it exists, and recognizes the prevailing customs if they do not entail violations and corruption of Islam, and thus achieves forms of positive diversity and multiplicity. However, it does not forfeit anything of its fundamental creeds, foundations, and values that transcend race, ethnicity, nations, and peoples and rise above epochs. However, many ruling regimes, including Arab and Islamic regimes, have attempted to create an Islam that suits them, and perhaps this is what encouraged France to take some Islamic countries as examples on two occasions. The first was the (French
President Jacques Chirac’s statement in Tunisia before the announcement of the law that bans the hijab in French schools, claiming that the hijab represents an attack on secularism; the second occurred when Nicolas Sarkozy, the French Interior Minister at the time, visited Egypt to seek a fatwa from Sheikh Tantawi on the hijab concerned in the negative image of France in the Arab and Muslim world because of this issue. The French officials were aware of what many Arab and Islamic governments were doing to the provisions of Islam, and how they oppressed hijab-wearing women, bearded men, preachers, and religious movements in response to foreign pressure or for narrow political purposes.

The actual reasons behind the ban on the hijab in France:

“France is a unified, secular, democratic, and socialist republic,” as stated by Article I of the 1946 Constitution of France, which was approved by communists, the socialists, and the Christian Democrats (MRP) as well. This explains many of the developments that took place after the adoption of the 1905 law on the separation of the State and Churches which marked a critical stage in the battle over secularism.

However, Deltombe also argues that the media coverage of Islam and Muslim issues in France is still dominated by a colonial mentality, and points to the striking phenomenon in French political life, that is, the French right and left were in sharp conflict during the Algerian war, where the former was a supporter of French colonialism and the latter opposed it, yet these two currents have converged when [the situation] involved Islam. This condition is described as “the French Republic’s dilemma.”

Furthermore, Alain Gresh (2003), editor of Le Monde Diplomatique, observes that when Sarkozy insists that women must appear without a hijab in ID card photographs, he is raising an issue related to public order and not secularism. When there is talk about the mixing of the sexes in school, it is about equality between boys and girls, and not secularism, since the secular schools had adapted until the late 1960s to the process of separation of the sexes, and the secular republic had adapted to the rejection of women’s right to vote over decades. Gresh reiterates the question: Are the few scores of girls who wear the hijab in school buildings the ones who are threatening this doctrine? Or is it the injustices, the forms of discrimination, ghettos, unemployment, and all these neglected issues that “reforms” exclude? He describes this as processes of “distraction.”

Conversely, the French intellectual Francois Burgat (2003) believes that the problem lies in the lack of distinction between “the core” of secularism and the “points of reference” of secular values, as in the case of Ataturk’s policies in Turkey at the beginning of the twentieth century, when he barred people from wearing the “tarboosh” [fez]. Burgat argues that Ataturk was confusing the nominal semantics and the essence of modernism. This controversy over the hijab in France is seen by Burgat as “an expression of rejection [of the idea] that (non-dominant) culture would play a public role in the national ideological fabric.”

Several lobbies in France are seeking to present Islam as a source of constant threat to secularism and the social, political, and cultural fabric, while taking advantage of the international climate and current events, thus pushing the French authorities to adopt the security option and proceed with it. Others consider Islam a religion just like Christianity
that has to be tackled by relying on the 1905 law, and thus push the authorities to adopt the legal option. This dual approach does not allow for the correct consideration of the Islamic religion as it is, not as others portray it, and not even as experienced by its adherents in the present moment. Such a situation could close the historic opportunity for French secularism to experience cross-pollination and acculturation with Islam, and hinders the emergence of a European Islam. What is occurring here is an experiment in the development of Islam in a contemporary European environment, which is a great responsibility borne by the Muslims of Europe—Muslims in France are at the forefront of this adventure.25

Resolving the dilemma of French secularism and the role of Muslims:

How will the dilemma between French secularism and religious freedom will be resolved:

- If French secularism is not always successful in ensuring respect for the principle of religious freedom, and if “American” or “international” religious freedom seems to permit the return of fundamentalism and religious sectarianism, then there is no doubt that today we need a new rights approach that is capable of restoring the balance between the demand for secularism and the demand for religious freedom, in a fashion that ensures the realization of the following equation: Religions must not prevail over anyone, and conversely no one must prevail over them. In other words: religion must not assume the position of the executioner nor must it be in the position of the victim.26

What is the role of Muslims in the West and in the world?

- Muslims must recognize that the era of freedom at no cost in the West is over, and it is no longer sufficient to seclude themselves from the social mainstream and forget about public affairs, leaving others to fight for personal freedoms on their behalf, and then enjoying the fruits of the others’ struggle and sacrifices.27
- It is necessary to hold global conferences on interfaith dialogues, which would prove that the hijab, and its attendant dictates in terms of women’s chaste appearance, lowering of the female gaze, manners of speaking, not displaying adornments, and prohibitions of intermingling between men and women, are obligatory in all religions.28
- Muslims must also engage in political action, make their voices heard, struggle for public liberties and civil rights, and challenge all biased laws, foremost among which is the law banning the hijab. The Muslim presence in the West is expanding, and the negative reactions toward it are escalating, fueled by past legacies and the opportunism of merchants of war and instigators of strife and the clash of civilizations in every age.29
Notes

8. Ibid


