An Analysis of Recent Legislation on Religious Attire in France

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AN ANALYSIS OF RECENT LEGISLATION ON RELIGIOUS ATTIRE IN FRANCE

By

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Table Of Contents

Abstract ............................................................................................................................................... 4

Chapter 1- Historical Context of Laïcité and Immigration in France ............................................ 6
   Laïcité and French Secularism ........................................................................................................ 6
   From the French Revolution to Recent Immigration ................................................................. 11

Chapter 2- The 2004 Headscarf Debate and Legislation on Religious Symbols ....................... 17
   2004 Passing of Hijab Ban in Public Schools ........................................................................... 22
   General Statistics Regarding French Students That Wear the Hijab ..................................... 22
   Aftermath of Passing the Hijab Ban in Public Schools ............................................................. 23

Chapter 3: An Analysis of the 2010 Ban of the Full-Face Veil (Niqab) ....................................... 27
   Who Wears the Niqab ..................................................................................................................... 27
   Niqab’s Presence in French Society Today ................................................................................ 29
   Francophone Country Comparisons ......................................................................................... 36
   Quebec, Canada .......................................................................................................................... 36
   Tunisia .......................................................................................................................................... 38

Conclusions ..................................................................................................................................... 41

Works Cited ..................................................................................................................................... 44
Abstract

This thesis aims to situate the controversy surrounding Muslim women’s attire in France in a historical context of this country, specifically the development of the French concept of laïcité. In 1905, there occurred an important development in the law, pertaining to the separation of church and state. In France, this is called laïcité and was “informed by and predicated upon French secularism and later inculcated in the ideals of French citizenship (liberté, égalité, and fraternité) through ‘neutral’ civic education” (Gordner 2008, 75). The relationship between the Roman Catholic Church and the state was the main reason for this judicial development that lead to laïcité. Its main purpose was to curb the influence of the Catholic Church in state matters. However, in the later part of the 20th century, Islam has taken the place previously associated with the Catholic Church in that its influence was seen as being in contrast with a laïque society and has become “the new focal point for the state secular policy in France” (Gordner 2008, 72). Obviously, there are far fewer Muslims in France than there were or are Catholics, but the concept of laïcité is invoked with regards to limiting certain Islamic practices in public spaces.

This shift caused several tensions between French citizens and North African immigrants as France tried to preserve its traditional French culture. As a result, in 2004, a law was passed in France to ban “ostentatious religious symbols” in public schools. Even though the law applies to all religious symbols, most observers would argue that it was really intended towards Muslim girls wearing the Muslim headscarf, hijab. “The wearing of small Christian crosses, for example, is not disallowed and therefore the law can be interpreted to be directed at the wearing of the Muslim headscarf” (Gray 2008, 101).

In this Honors Thesis I will explore the question if the French bans on select religious attire in public schools (2004) and the niqab in public spheres (2011) are specifically related to the religion of Islam or if other factors, such as immigration, social exclusion, "otherness" of Muslim minorities etc. play...
a role. I also will explore the history of laïcité in France and its current application. I further my research by looking into other Francophone countries dealing with similar issues. Much research is available on the 2004 law banning ostentatious religious symbols in public schools. Since the 2011 controversy surrounding the full-face veil is relatively new, there is little scholarly research published at this time. My literature research is also limited due to the fact that I have no background in the French language. However, this topic is of interest because France has the largest Muslim minority in a Western country and therefore the way France deals with this population is of interest to other countries as well.
Chapter 1- Historical Context of *Laïcité* and Immigration in France

The 2004 ban of “ostentatious” religious symbols in French public schools and the 2011 ban of the full-face veil in France have to be understood in the context of historical events in France. Two of the most significant milestones leading to current legislation concerning public display of religious symbols were first, the development of the 1905 *laïcité* law and second, the history of immigration in France from North Africa since World War I. Even though the 1905 law was a major factor contributing to the legislation on the banning of specific religious attire more than a hundred years later, tensions between religious institutions and the state date back even further in history.

*Laïcité* and French Secularism

In order to understand current discussions and laws restricting the wearing of particular attire in public in France, it is necessary to take a brief look at French history with regards to the development of church and state separation in France. Anthropologist John R. Bowen states that “integration and *laïcité* are twin signposts on the road to realizing the French political model” (Bowen 2007, 12). This "French political model" refers mostly to the structure of government, and even more specifically, the outcome of how government is influenced by its history today. In the following, I will highlight chief events of the process of *laïcité*.

In the sixteenth century, France – and large parts of Europe for that matter - went through a series of wars between Catholics and Protestant Huguenots known as the War of Religions from 1562 to 1598. At the time, Catholicism was the dominant religion of France and the Roman Catholic Church was closely tied to the monarchy. As everywhere else in Europe of that time, legislation pertaining to religious tolerance was uncommon. This was changed with the Edict of Nantes in 1598 that granted the Huguenots, who were Calvinist Protestants, the ability to practice their religion without government interference. However, the Edict of Nantes was revoked under the Edict of Fontainebleau in 1685 in
which King Louis XIV ordered the destruction of Huguenot churches, closing of Protestant schools, re-
instating primacy of the Roman Catholic Church. At the time, church and state were closely and officially 
connected. The monarchy had religious roots because it embodied the idea of the divine rights of a king. 
French Kings were supposedly chosen by God using the theory of “the divine right of kings.” The theory 
of the divine right of kings remained in place until the eighteenth century, and the King’s “duty to 
uphold the word of God conferred upon him religious, and thence political, legitimacy” (Gordner 2008, 
74). It was not until the French Revolution beginning in 1789 that the 1795 Constitution finally 
eliminated the notion of a King’s divine right, shifting state authority to the people. 

However, the power of the Roman Catholic Church continued to have significant influence on 
French citizens up to, and even after, the end of the Revolution in the 18th century. During the period of 
the French Revolution, the Declaration of the Rights of Man and Citizen was adopted. This legal 
document advanced ideals of human rights and the idea of modern secularism came into place. Article 
17 of this Declaration states that “no one shall be disquieted on account of his opinions, including his 
religious views, provided their manifestation does not disturb the public order” (Gordner 2008, 74). In 
December 1789, this article caused the Assembly to allow non-Catholics vote and be qualified for 
various types of employment, such as those that were civil and military. 

During this revolutionary time, ideas such as nationalism, modernism and secularism gained 
ground. Emphasis was now placed on the notion of “French citizen” as being the primary source of 
identity over the importance of those regarding particularly religious, as well as cultural, geographical 
and community identities. This was pertinent in keeping the slogans of the French Revolution: liberté, 
egalité, and fraternité. 

In 1801, Napoleon Bonaparte established the Concordat which has indirect notions of 
separating religion from state affairs. It gave the papacy more civil status as the Catholic Church was 
reaffirmed as the primary religion of France, but there was more of an emphasis on the balancing of
state and religious affairs, as opposed to previous rulings with divine rights and having these two aspects go hand in hand. He introduced the system of the lycées, non-Church affiliated high schools, thus inculcating young minds with these new ideas. Lycées discouraged religious studies and instead emphasized three different areas of specialization: classical studies, modern studies (such as languages, literature, and various liberal arts subjects) and scientific-technological studies. Inculcating educated French youth with such ideas allowed for the spreading and acceptance of the ideals of laïcité. Pursuant to these developments came another milestone, namely the 1905 law that formally established the separation of Church and State in France.

The 1905 law was implemented to settle disputes between secularist government officials and members of the Catholic Church. It ended Napoleon’s Concordat and implemented some new measures that were already socially-implied ideas. The first two articles of the 1905 law read: (1) “The Republic ensures freedom of conscience. It guarantees the free exercise of religions,” and (2) “It neither recognizes nor subsidizes any religion” (ibid 74). Although laïcité was codified in this way in 1905, it is interesting to take into consideration that aspects of secularism started to come about in the social aspects of life with the introduction of public schools in the 1880s. Jules Ferry (1832 – 1893), Minister of Public Instruction, was a defender of the ideas of laïcité and made the public classroom a secular environment. Primary education was declared “secular, free of charge and compulsory” through the Jules Ferry education laws established from 1882 to 1886 (Bowen 2007, 25). Jules Ferry required that “all teachers had to be lay persons...Chaplains could give religious education after hours and... (students) can attend catechism one day per week” (ibid 25). The Ferry laws influenced the Article three of the 1905 law, which states that religious education as a whole became forbidden in public schools.

The 1905 law “restrains the state from subsidizing or extending special recognition to any one religion” (ibid 2). However, the term “laïque” did not feature in the 1905 law but was included later in the Constitution of 1946 and “by the body of statuses making up the French law of religion, interpreted
by jurisprudence” (Roy 2007, 18). Professor Oliver Roy explains the political aspect connected to the concept of _laïcité_, namely: “_laïcité_ is a characteristically French phenomenon... and was built against the Catholic church, not necessarily the religion,” hence it was concerned chiefly with limiting the role of the Catholic Church in state matters, rather than separating church and state in order to safeguard religious freedom as is the case with secularism in the United States. (ibid 15).

In 1946, the Constitution of the Fourth Republic guaranteed freedom of religion, “declaring France an indivisible, secular, _laïque_, democratic and social republic... which ensured equality before the law of all citizens, with no distinction made on the basis of origin, race or religion” (Gordner, 74). The continued close relationship between the Roman Catholic Church and the state is what influenced the judicial development that led to _laïcité_. Its main purpose was decrease the influence of the Church in state matters. As Roy explains:

France may be the only democracy that has fought religion in order to impose a state-enforced secularism. In France, _laïcité_ is an exacerbated politicized and ideological form of western secularism that has developed on two levels:

- A very strict separation of church and state, against the backdrop of a political conflict between the state and the Catholic Church that resulted in a law regulating very strictly the presence of religion in the public sphere (1905). This is what I (Oliver Roy) call legal _laïcité_.
- An ideological and philosophical interpretation of _laïcité_ that claims to provide a value system common to all citizens by expelling religion into the private sphere. I (Oliver Roy) call this ideological _laïcité_: today, it leads the majority of the secular Left to strike an alliance with the Christian Right against Islam (Roy 2007: xii).

The most recent constitution of the Fifth French Republic (introduced in 1958) emphasizes these ideas in the first two articles. Article one states that: “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. It shall be organized on a decentralized basis” (assemblee-nationale.fr, 2006). Within this article itself, one can see the notion of implementing a singular French identity, disregarding other identities the French citizens might hold, and those who take up French citizenship are "equal" and should share similar ideas and lifestyles. Article two states: “The language of the Republic shall be French. The national emblem shall be the blue, white and red tricolor
flag... The maxim of the Republic shall be ‘Liberty, Equality, Fraternity’” (ibid). This article, in addition to upholding the values and slogan of the French revolution, conveys the idea that speaking the French language is essential to national identity. It was added much later in response to more recent debates about immigration. “The laws enacted in the 1880s and 1905, and the rights enshrined in the first two articles of the 1946 and 1958 constitutions, respectively, make up the juridical nature of laïcité, which is secularism” (Gordner 2008, 75). According to policy analyst, Matthew J. Gordner, the new constitution from 1958 emphasizes the ideals of laïcité with a “uniform set of rights regardless of culture identity or beliefs” (ibid, 75).

However, some have argued that secularism and laïcité are not identical concepts. As Roy continues to elaborate, secularism is “a social phenomenon that requires no political implementation: it comes about when religion ceases to be at the center of human life... and there is a disappearance of religion” (Roy 2007, 7) with regards to state matters. But secularism should not be conceived as being “anti religious or anticlerical” (ibid 8). Laïcité is a uniquely French principle “decreed by the state” involved in the organization of “public space” and “does not necessarily cast religion into the private sphere... but it limits the visibility of religion in the public sphere” (ibid 8). Laïcité deals with religion and the institution of the organized religion in matters of government, whereas secularism – as pertaining to the United States for example - protects an individual rights to free exercise and expression of religious beliefs. Thus, one of the major differences between secularism, as adopted in the United States, and laïcité in France is that the French concept arose out of an adverse relationship between the Roman Catholic Church and the state, whereas in the United States, separation of Church and State was enacted primarily to safeguard and protect various religious practices and expressions. The church/state hostility that was at the root of the French legislation plays out today in France’s official policy towards yet another religion, in this case Islam.
In the later part of the 20th century, Islam, as practiced by French Muslims, has taken in some ways the place previously associated with the Roman Catholic Church in that its influence was seen as being in contrast with a *laïque* society and has become “the new focal point for the state secular policy in France” (Gordner, 2008, 72). Obviously, there are far fewer Muslims in France than there were or are Catholics, but the concept of *laïcité* is invoked with regards to limiting certain Islamic practices in public spaces. It is important to note here that there is a significant difference between the influence the Catholic Church exerted and that of the considerably smaller, minority community comprising Muslims. Today no more than 10 percent of the French population is Muslim, the majority of North African immigrant background.

**From the French Revolution to Recent Immigration**

This shift of religious animosity occurred largely with the influx of native Algerians (i.e. Muslim Algerians and not those descended from European populations in Algeria) after the protracted Algerian war for independence (1954-1962). However, immigrants of North African origins were arriving long before that, as they were recruited for the French army during the two World Wars and replacement workers in French society beginning at the time of World War I. France continued to rely on its colonies for soldiers and workers, this presence affected economic prosperity "under highly centralized state management" from the middle of the 1940s to the middle of the 1970s (Fredette 14). During this time period colonization affected the French political, economic and social model. French colonial authorities encouraged an influx of North Africans (temporary or permanent) into metropolitan France owing to the idea that French educated colonial subjects would serve French interests within those colonial territories. Whether recruited as laborers in the service of rebuilding France after World War II, or as students to be educated at French universities, the presence of large numbers of people from Muslim majority countries made the terms "Muslim" and "immigrant" synonymous. According to Professor Dr. Jennifer Fredette, "this wasn’t an altogether inaccurate assumption at the time" (ibid 14). North African
immigrants, typically single men, were expected to be temporary workers and visitors intending to return to their families and they themselves, "did not ask for, or expect, much from France" (ibid 14). Living on the outskirts of major cities in specifically, ghettoized settings for migrant workers, there was not much expectation of integration. In terms of religious presence, their practices were understood - rightly or wrongly – as "minimal", and some "simply did not practice at all" (ibid 14). Immigration patterns changed around the mid 1970s due to the fact that as time evolved, there were immigrants from more diverse origins with more long term residencies affecting French demographics. These changes "have contributed to changes in how Muslims view themselves..(In turn,) there is an increasing number of converts to Islam in France, from ordinary folks to the famous" (ibid 14).

After the Algerian war ended in 1962, the influx of Muslim immigrants to France increased. In addition, people from former French colonies in West Africa, as well as Morocco and Tunisia swelled the ranks of Muslim migrants. However, it is the prolonged problematic involvement of France with Algeria is still at play if France’s contentious relationship with its Muslim populations.

Unlike French colonial possessions, Algeria was not a colony, but an integral part of metropolitan France. The Algerian war of independence therefore was strictly speaking not an international conflict but rather like a civil war. The more than 130 year presence of France in Algeria left a mark not only on French-Algerian relations but also influenced the way in which people in France view Muslims. Thus, when discussing legislation pertaining to the display of Muslim symbols in public, there still is an underlying current of unresolved French Algerian relations.

In 1974, France decided to bring to an end the influx of migrants from its former overseas territories. As Hargreaves explains, there were exceptions for nationals of the European Community and asylum seekers (Hargreaves 2007, 25). One of the main reasons for this suspension was to avoid an increase of the rate of unemployment in France as more workers would come seeking new opportunities and jobs. However, the family unification program brought wives and children of North
African immigrants to France around the mid 1960s (ibid 24). This policy too ended in 1981 when the Left came to power and granted amnesty for illegal immigrants (ibid 28). As a result, there are now families with a migration background in France that have been there for more than two generations. Second- and third generation populations with an immigrant background see themselves culturally as French and religiously as Muslims and don’t see a conflict between those two. It is the majority French population (français de souche) that perceive these two identities as being at odds with each other. (Gray 2008, 27) This outward visibility of religious or ethnic difference as evidenced by wearing the Muslim headscarf and in a few extreme cases, the full face veil, presents a dilemma for the majority population. Children of parents or grandparents with a migration background are enrolled in French public schools and have French as their native language despite the fact that they speak colloquial Arabic or one of the Berber languages with their parents (Hargreaves 2007, 28). According to Hargreaves, immigration is now permanent. Immigrants, over 100,000 each year, become French citizens mostly through naturalization but apparently, to some, not French enough (ibid 28).

Furthermore, immigrants of North African origin frequently remain “socially marginalized and culturally excluded” (Zanten 1997, 356). As there have been many claims made by the political elite about the failed integration of immigrants, this point of view still continues to exist. Scholar, Tariq Ramadan, also furthers opinions of political elites and citizens of higher status to say that "Islam and Muslims do not symbolize settled citizens but eternal immigrants who are to be integrated or stigmatized" (Ramadan 2010, 76). Zanten elaborates this point as she writes:

They also appear as a threat to the French meritocracy and to the French conception of equality of opportunity because of their persistent exclusion from the social and the economic system, despite the significant progress they have made in educational achievement (Zanten 1997, 356).

This discriminatory view is imposed on those with North African origins, including those that are born in France. Regardless of being born in France, Muslim presence in the hexagon, as metropolitan France is commonly referred to, according to some political elites, do not go hand in hand with what France
stands for. According to Dr. Fredette, as quoted by an article written by Ceaux & Jakubyszyn, while Sarkozy was Minister of the Interior, he partook in a debate in regards to French Muslims and his opening statement began with “[l]et us recognize the failures of French integration” (Fredette 6). This statement implies that Muslims have not been "integrated" successfully and have not become a part of French society. At this point, Muslims supposedly cannot identify with the French culture and have "failed" in their attempts to do so. Due to this, some immigrants have been denied citizenship all together and have simply become "foreigners."

With Algerian independence in 1962, Algerians of non-European origin were deemed by the French authorities automatically to lose French nationality unless they specifically opted to retain it. In this way, most economic migrants ceased to be French and appeared in subsequent census data as foreigners (although many of their children were to have dual nationality) (Hargreaves 2007, 193).

When considering the failures of integration, are those born in France as French citizens but with a Muslim, North African background considered as failures as French citizens also? More importantly and ironically, how does this failure of integration pertain to those who are native French citizens raised as the typical Christian but later have converted to Islam? Though there are no statistics available, it is safe to assume that native French converts to Islam form a particularly small minority, but it is women from this population group who advocated most strongly for their right to wear the full face-veil (Pathak 4-25-2011).

Gordner described French policy towards its Muslim community as follows: “French secularism and laïcité are incoherent in application to France’s North African Muslim individuals and communities” (Gordner 2008, 73). He refers to the numerous instances of discrimination with regards to housing and employment opportunities. In 1989, at a convention for l’Organisation Internationale du Travail (International Labor Organization), a new socioeconomic concept known as “positive discrimination,” was introduced, which is similar but not the same as affirmative action programs in the United States adopted in the 1960s and 1970s. According to Oxford English dictionary, positive discrimination is a
British term that refers to "discrimination in favor of individuals belonging to a group considered to be disadvantaged and under privileged." Affirmative action is based off of the civil rights movement in the United States and is defined as "action taken to affirm an established policy; positive action by employers to ensure that minority groups are not discriminated against during recruitment and employment." They key difference is that "positive discrimination" was not part of legislation and is not primarily aimed at ethnic or religious minorities but instead is aimed at addressing socio-economic imparities. As census data in France do not include references to race, religion or ethnicity, it is difficult to accurately measure discrimination based on these criteria, or to assess successes in rectifying these systemic inequalities. Several organizations and associations assisting immigrants, such as a “High Council for Integration, a Directorate for Populations and Migrations,” and several regional commissions for the insertion of immigrants proposed ways to address issues of discrimination (BBC News Europe, 2005). Then minister of the interior Nicolas Sarkozy stated in an interview with the French daily newspaper Le Monde in May 2003 that “positive discrimination is needed to re-establish equal opportunity,” but he did not translate that commitment into law and has since reneged on it (Bowen 2007, 105). Some examples of these organizations include "a High Council for Integration, a Directorate for Populations and Migrations, several regional commissions for the insertion of immigrants, and so on" (BBC News Europe, 2005). Though criticisms of positive discrimination state that the track record of most of these organizations is of having ignored or resisted serious attempts at combating discrimination, going against the intentions of the basic foundations of these groups.

French fear of “the other” is an enduring phenomenon as evidenced by the sustained popularity of anti-immigration, nationalist parties such as Jean-Marie Le Pen’s “Front National," now directed by his daughter Marine Le Pen. The party still recruits from among those who fought in the Algerian war on the French side. Even though people of Algerian - and other - backgrounds have by now lived in France for up to three generations, they are still often considered “immigrants,” even though the second and
third generation are born in France, have never lived anywhere else, have French as their native language and have been educated in the French secular school system. Still, non-traditional French practices continue to be seen in a negative light, such as the wearing of the Muslim headscarf, hijab, or more recently the full face-veil, niqab.

Immigrant Muslims, regardless of their supposed level of integration and what the political elite believes, have become a visible part of French society that goes beyond what their presence was during colonial and war times. "It is no longer possible to say that Muslims, as a population in France, can be understood through the lens of the immigrant experience. Immigration is an important experience for many, but not all Muslims" (Fredette 14). Regardless, to comprehend patterns of immigration and its impacts within French society, this understanding leads us to recognize the core issues in relation to a visual Islamic presence. In addition to immigration, understanding the basic ideals of the 1905 laïcité law and how events in history related to the Catholic church tied with government affairs in France caused this law to be also impacted by the Islamic presence in France. Both of these factors can lead us to understand the discourse, controversies, and disagreements regarding legislation banning religious attire in the public sphere, which is comprising of all religions present in France, but they also lead to an understanding of why there is more of a focus on Islam over other religions.
Chapter 2- The 2004 Headscarf Debate and Legislation on Religious Symbols

The term hijab refers to the Islamic headscarf for women that covers the hair and neck. In 2004 a law was passed in France that restricts the wearing of this and other “ostentatious” religious symbols by students in public schools. In 2011, another law was passed that banned the wearing of the full face veil, niqab, in all public spaces in France. The following describes events that led to the 2004 legislation banning ostentatious religious symbols in French public schools and the aftermath of the passing of this legislation.

In 1989, while the world was shaken by the fall of the Berlin Wall and the subsequent collapse of the Soviet Union, France was mesmerized by an entirely different affair. There, tensions erupted in that year when three girls were suspended from the local collège (the lower secondary or junior high school in the French system) in Creil, a town in northern France. Two of the girls, Leïla and Fatima Achaboun, were of Moroccan background and Samira, the third girl that was suspended on September 18, 1989, was of Tunisian background (Winter 2008, 129). The school principal regarded the wearing of the Muslim headscarf as a violation of the principle that the French public school was a secular, laïque institution and religious beliefs are a private matter and thus the display of overt religious symbols had no place in a public school. There were various other similar incidents in other schools that eventually led the government to make a ruling that applied to all public schools. The fact that it took five years from the first widely publicized incident to the passing of the law is an indication of just how complicated this matter had become.

The month following this spark, in October 1989, several students that wore the hijab were also suspended from schools “in the suburbs of Montpellier, Marseilles, and Avignon..and on November 6, sixty-five teachers at a junior high school in Poissy refused to teach their classes if any student was wearing the hijab” (ibid 166). Apparently “the headscarf in France became an issue related to identity,
and toleration of its wearing in schools represented an unacceptable subordination of women” (Judge, 2004, 9). Matthew J. Gordner summarized and assessed the events as follows:

The Headscarf Affair is utilized to illustrate the untenable demands of ‘ideal citizenship’ that the French exception attempts to cultivate, namely one that requires the divesting of previously held cultural and religious beliefs and values in favor of adopting a French historical narrative that includes, among other things, a favorable view of the ‘colonizing mission’ of North African states during the French colonial period (Gordner, 2008, 72).

The 1989 incidents were not the first cases of this kind. There were some cases even before this but in 1989 these types of incidents began to garner large public attention. The 1989 public school cases provided the spark that eventually culminated in the 2004 law. Ever since the events of 1989, there were various kinds of incidents at public schools with principals responding differently: some expelling covered girls, some not, some readmitting them after some disputes etc. The demand for clarification of official position became increasingly strong. Tensions grew with each new case and school principals were in the spotlight regardless of how they decided on a particular case.

On October 20, 1994, the French daily Le Monde referred to another affair characterized as a "national psychodrama" and a "saga" as it involved François Bayrou, the then Education Minister, who "recommended the prohibition of 'ostentatious' religious insignia in schools" and avoid the "separation of young people from each other..and (the) breaking up of the national community" (Winter 2008, 7 & 178). His arguments infer that such symbols go against the quintessential ideals of equality, fraternity and liberty of the French revolution that are held dear by France. Though five years prior he had opposed a ban on headscarves with the argument that such a ban would "bring about the development of Koranic schools, which would be more detrimental to integration than wearing the veil over the hair" (ibid 178). Bayrou's change of positions can be understood as being emblematic of the conflict between upholding religious freedom on one side and maintaining the integrity of a secular school system on the other.
Even though the Minister of Education in 1994 expressed support for a ban that same year, there were some instances in which expelled girls were brought back to schools based on Article 10 of the 1789 *Déclaration des Droits de L’homme et du citoyen* (The Declaration of the Rights of Man and of the Citizen) which stated that: "No one shall be harassed on account of his opinions, even religious ones, provided that their manifestation does not disturb public order as established by law" (Winter 2008, 176). Secular parents did not agree with this stance and when they confronted the school board, *Le Figaro* on June 7, 1994 reported that the school board had argued that "their hands were tied: it could not, by law, expel girls on the sole basis of hijab-wearing" (ibid 177). However, coming to a solution on these issues was not easy, and actual legislation was not passed until about a decade later. Certainly, as the passing of the law would show, those who perceived ostentatious religious symbols as a “disturbance of public order” prevailed.

As the discourse of the political elite sees this legislation as necessary and imperative, many non-Muslim French citizens see this issue in a negative light, such as the case of the Lévy sisters and their widely publicized incident preceding the law. In 2003, at Henri-Wallon high school in Aubervillers, Muslim converts, Alma Lévy (at the time sixteen years old) and Lila Lévy (at the time eighteen years old) showed up to school wearing headscarves to make a statement. Their father was part of an anti-racism movement known as MRAP- *Mouvement contre le Racisme et pour l’Amitié entre les Peuples* (Movement Against Racism and for Friendship Between People). One of the sisters was asked to leave class but the principal believed that the girls needed to “be allowed to find themselves” (Bowen 2007, 110). This angered various staff members at the school. Even though their father did not agree with them wearing the headscarf, the Lévy sisters admitted that “they would never wear it in a country where it is required” (ibid 111). Unfortunately the Lévy sisters’ argument was pushed aside when the 2004 law passed and that the “condition of necessity required Muslims to obey civil laws even when they contradict religious principles” (ibid 112). Legislation passed and even though “[s]ome disliked
headscarves..." they "did not think that girls should be expelled from school who wore them. Others were concerned that the law violated religious freedom” (ibid 128). In addition to some non-Muslim citizens not in favor of this law, the opinion pages of the French daily, *Le Monde* also occasionally argued against the law because the effects of this ban would "stigmatize, marginalize, and exclude a part of the population when the country has more than ever a need for integration" (ibid128).

Regardless of the message the Levy sisters tried to send, in 2003 President Chirac considered the veil to be “aggressive” and expected a law to be passed. When he delivered a speech about the formation of the upcoming ban of "ostentatious" symbols in public schools in December 2003, the National Assembly, the Senate and 69 percent of the (France’s) population was in favor of this law (Bowen 2007, 128). Nicholas Sarkozy, who eventually became president of the French Republic in 2007, stated on April 19, 2003 that “for Islam to be completely integrated into the French Republic, its major representatives should themselves be perfectly integrated into the Republic..and nothing would justify women of the Muslim confession enjoying a different law” (ibid 102). President Sarkozy was at the time giving a speech to Imams in which he addressed the issue of women’s photographs on identity cards. These provisions concerning unveiling for identity cards may have been one of the triggers that led the National Assembly to pass the law that following February. There were protests against the ban by some groups but this did not stop the National Assembly and President Chirac. In November 2003, *Elle*, a French weekly magazine, published a poll of Muslim women living in France which concluded that 49 percent supported the law and 43 percent opposed it. Elisabeth Badinter, a prominent French feminist, argues that 43 percent opposed the law because of “pressure by fundamentalists, or les intégristes” (ibid 125). The December 2003 issue of *Libération* contained an article “concerning girls in poor neighborhoods who denounce pressures placed on the by Muslim boys,” showing that girls who did not cover went through various “pressures” as well (ibid 126).
A key argument in favor of the hijab ban in public schools is the notion of individual choice. Bowen cites a letter published in Libération from May 20, 2003 saying of female Muslim students, “it is by welcoming her at the secular school that we can help her to free herself and give her the means of autonomy; it is sending her away that we condemn her to oppression” (Bowen 2007, 107). This implies the widely held notion that the headscarf is routinely not a matter of individual choice, but is forced onto a schoolgirl either by her family or community. This is an important aspect for some Muslims and non-Muslims alike. In her study of women of Moroccan origin in France, Gray finds that a large number of Muslims view the wearing of the hijab as a choice of a mature, adult woman and as an expression of a choice made by someone who has reflected deeply on her faith. These Muslim women are against young girls wearing the hijab, because putting on the headscarf is a not a decision that should be reversed. Furthermore, it is rare for adult Muslim women to argue with each other over the wearing of the headscarf whereas for younger minds, this can – and has – become an issue of contention.

2004 Passing of Hijab Ban in Public Schools

In February 2004, President Jacques Chirac (1995-2007) announced passage of the law to ban “ostentatious religious symbols” in public schools after it was passed by Parliament. This law was intended to target primarily girls wearing the Muslim headscarf, hijab. “The wearing of small Christian crosses, for example, is not disallowed and therefore the law can be interpreted to be directed at the wearing of the Muslim headscarf” (Gray 2008, 101). Strictly speaking, the argument is that a “small” symbol is not “ostensible” whereas a “large” one (e.g. an Islamic headscarf) is. It can be argued that this law is not geared towards Muslims as the Jewish Kippa and the Sikh turban also fall under 2004 ban. However, as the Jewish community in France is relatively affluent, there are private Jewish schools with a strong religious component and observant Jewish families have the option of sending their children to one of those religious, private schools. By contrast, the majority of Muslims with immigrant background
do not possess the same economic clout, hence there are no comparative private Muslim schools. No matter the degree of religiosity, the majority of the Muslim population depends on public schools.

**General Statistics Regarding French Students That Wear the Hijab**

The number of cases involving students wearing headscarves in public schools is not exact and tends to differ according to the sources. The January 9-10, 1999 edition of the French newspaper, *Libération*, for instance cites that Hanifa Chérifi, who was appointed as a "government mediator with families in problematic cases of headscarf wearing in public schools" estimated that there were about 300 headscarf conflicts in 1994. According to the same source, recorded cases of conflict reduced to about half that time within a decade (Winter 2008, 163). It is difficult to ascertain the exact number of pupils who wear the headscarf because the student population changes year by year and not all girls wear the headscarf consistently over the entire period of their public schooling. Chérifi is quoted as saying that there were approximately 2,000 covered girls at the beginning of 1990, a number that reduced to 400 in 1999 (ibid 163). The headscarf affair was also not as highly concerned as the problem was more diffused overtime. Given that the number of girls wearing the headscarf significantly reduced prior to the passing of the law makes one wonder why the French government perceived a necessity to pass such a law. This seems to be more a statement of principle and was done to ensure that a similar controversy would not arise in the future.

The headscarf debate certainly heightened the controversy concerning integration of Muslim population groups into mainstream France. While the appearance of the headscarf in mainstream public spaces diminished, in the *banlieues*, where the majority of people with migration background resides, the headscarf became a more common sight. However, as Chérifi argues, "the marginality of the phenomenon did not mean it was unimportant..there was a real problem..[even though] the actual number of conflict situations was very small" (Winter 2008, 164). This opinion implies that even though
there is a small number of people affected by the ban, there is still concern over the principle of such a
measure. Bowen goes as far as to state, "underneath all the talk about Laïcité there is racism. The
children of immigrants are not encouraged to continue their studies." (Bowen 2007, 96). However, since
there is no reported student discrimination in the enrollment process for public schools, this quote
rather implies that children of immigrants are encouraged to study if and only if they conform to French
notions of appropriate attire.

Aftermath of Passing the Hijab Ban in Public Schools

Although the law is intended for elementary and secondary public schools, its effects reach
beyond the classroom and the schoolyard. Many have predicted this impact before this legislation came
to be as the December 18, 2003 issue of Le Monde, for example, pointed out that the eventual ban
would affect lives of Muslims in general as "Muslim women would soon no longer be allowed to wear
their scarves in the streets" which would have more repercussions as the visibility and practice of a
religion would be forced to slowly diminish causing France to potentially deal with issues infringing on
human rights and religious freedoms (Bowen 2007, 128). Some examples include women being
suspended from their jobs, not receiving assistance in public areas, not being served, prohibition of
being involved with certain events, as Ezekiel writes:

A Paris meter reader was suspended for wearing a headscarf under her hat. Authorities
prohibited a fashion show of veiled women. Schools have forbidden veiled mothers from
volunteering in school events. A university cafeteria refused to serve a girl who was covering. A
municipal official stopped a bride’s aunt from signing as a witness when she refused to remove
her hijab for identification (Ezekiel 2006, 256-257).

Authors Amara and Zappi, claim that “in France’s secular society, wearing the headscarf conveys
ambiguous meanings..to which the media contribute by identifying the scarf with more militant aspects
Not surprisingly, passage of the law has generated mixed feelings in France. In Toulouse, Women of Color, a feminist group spoke in favor of the ban but at this same conference, a French convert to Islam “compared the ban to the Jews’ yellow star in Nazi occupied France,” while another veiled woman called France “not secular but Godless” which can imply that France’s lack of visible religion in the public sphere may infer a stern position not in favor of religious diversity (Ezeikel 2006, 264).

There have been anecdotal accounts that the headscarf ban has indeed had some unintended positive consequences in that intra-communal violence in the disenfranchised neighborhoods surrounding France’s large cities has decreased. Authors and activists Samira Belil and Fadela Amara, have written about acts of violence committed against unveiled girls by their co-religionists who considered these girls to be immoral or indecent in their book Breaking the Silence (Amara & Zappi 2006, 16). The authors turn a critical eye towards their own communities. Fadela Amara has been quoted to speak out as follows:

“...against her own Arab, Muslim community where young women had strict and sometimes arbitrary rules of behavior and dress and where punishment was private and often vicious. Offended by cases of gang rape and immolation for perceived immoral behavior, Ms. Amara organized a rally for women’s rights...that concluded with some 30,000 people marching on Paris (Erlanger 2008).

However it is clear that once all Muslim girls appeared equally uncovered on their way to and from school, they could no longer be differentiated and consequently could no longer be singled out by marauding gangs. Amara and Zappi write that a number of Muslims actually supported the ban, precisely because they believed it would reduce the level of violent attacks against young Muslim women. Gang rapes and violent attacks on Muslim girls by fellow Muslims are also described by Belil, in her book Dans l’enfer des tournantes (In the Hell of the Tournantes), where she “denounced the violent gang rapes of Young Muslim women for rebelling against the Islamic dress codes... imposed by their older brothers” (Amara & Zappi 2006, 16). Likewise, Bowen notes: “To justify expelling them (from
schools), people invoke things in which the girls are not necessarily implicated: lack of discipline, massive absenteeism racist and sexist (often anti-Semitic) insults” (Bowen 2007, 107). Though Amara and Zappi offer only anecdotal evidence, it stands to reason that intra-communal violence would reduce if in fact such acts are based on singling out women who are not veiled. However, some have argued that the law sidestepped the real issues affecting immigrant-minority populations in France. “The public discussion of the headscarf was understood... as missing the point of the problems of Muslims in France, namely social exclusion, lack of opportunity and discrimination” (Gray 2008, 105).

In France, there are three main bodies representing the Muslim community, namely Conseil français du culte musulman (French Council of the Muslim Faith), the Fédération nationale des musulmans de France (National Federation of Muslims of France), and the Union des organisations islamiques de France (Union of Islamic Organizations of France) that represent “the pluralism of French Islam” as they each have voiced a different view concerning the ban (Amara & Zappi 2006, 22). Certainly not all Muslims are represented by these organizations, so one can safely assume that there is an even larger variety of views on any number of issues concerning Muslim communities in France. “It is difficult to judge what extent the headscarf ban has divided the French Muslim community because many of its members have been educated in France and are probably more secularized in attitude than the image conveyed by the media” (ibid 23). This law also brought about several debates in hospital settings because various patients did not want treatment from someone who was covered. By the same token, there were Muslim women who did not wish to get treated by a male doctor. President Chirac in 2005 considered a law pertaining to medical establishments. All these instances are related to the particular French concept of laïcité.

These instances in recent French history and the development of laïcité influenced current French law and perceptions about the veil. The idea of secularism began with political conflicts in relation to the Catholic Church and eventually led to the debate about ostentatious religious symbols in
Some feel that the law infringes upon religious freedoms while some others believe that this law is necessary. For example, the women’s rights organization, launched by Amara, *Ni Putes Ni Soumises* (Neither Whore Nor Submissive), is "aimed at shattering the law of silence within the Muslim community concerning violence perpetrated against women by a minority of young men who assumed the role of morals police and guardians of their family’s honor" (Amara & Zappi 2006, 2). This project moved forward with the goal of empowering Muslim girls in secondary schools to have a voice, concluded that French Muslim women with the right to choose whether or not to wear the hijab usually come from a more educated background versus women that are forced to wear the hijab by their family members and society (ibid 22). Enforcing the law prohibits younger girls from being forced to wear the hijab, but women should have the choice to be able to practice their own religion without external societal pressures.

Knowledge about the historical framework of the development of *laïcité* in France allows for a better understanding of why the Muslim headscarf has become such a contentious issue. In the next chapter, I will address issues and events that led up to the banning of the niqab in public spheres in April 2011.
Chapter 3- An Analysis of the 2010 Ban of the Full-Face Veil (Niqab)

The term “veil” with regards to Muslim women’s head coverings is interchangeably used with several terms in various languages and describes a variety of attires. This chapter will focus on one particular version of dress, namely the full-face veil, most often referred to by its Arabic term “niqab.” The niqab is a religious garment worn today by some Muslim women. It consists of a piece of fabric that covers the face leaving only the eyes exposed. Another form of the full face veil is the Afghan style burqa which covers the entire face, with a mesh over the eyes. These garments, rather like cloaks, come in one piece and cover a woman from head to toe, leaving only a slit open for the eyes or a piece of mesh over the eyes. The French ban refers to all varieties of attire that pertain to covering a woman’s face that makes identification impossible. Because the French ban on this attire was officially promulgated in April 2011, to date not much in-depth research has been published on this and therefore I will refer primarily to articles published in newspapers and weekly journals.

Who wears the niqab?

In this century, the full-face veil is used by women that adhere to a particular religious persuasion within Islam. Historically though, the face veil was not always limited to Muslims as it was practiced within other religions as well. "Veiling spans time long before Islam and space far beyond the Middle East" (Heath 2008, 8). The history of the face-veil is interesting as it is derived from several places and it has different styles and purposes in different cultures. The presence of the niqab in societies is spread over centuries from various geographical regions. Jennifer Heath cites cases of women covering their face thusly in various regions throughout history, such as the Iberian peninsula, and other European societies such as in Rome and Greece (ibid 7). Anthropologist Fadwa El Guindi also
traced the wearing of the veil throughout the centuries in various geographical locations and suggests that veiling goes beyond the Mediterranean, Balkan and Mesopotamian cultures.

Guindi also refers to the niqab’s origins as a cultural occurrence in the Middle East North Africa region and parts of Europe. From these geographic regions, face veiling "gradually spread from that period of Mamluk rule" specifically elite women in Egypt (Guindi 1999, 105). Around the nineteenth century, veiling and social class were connected in that it was mostly upper class women who were veiled whereas rural women were not. Also in this century, painters began depicting veiled women, "evidence for these veil forms (the niqab) came from Orientalist paintings and the writings of travelers" (ibid 105). Before veiling became a symbol for women of a higher social class, veiling also expanded to a tradition that pertained not only to women, but according to Guindi, even men at one point veiled “to avoid stares of envy” in pre-Islamic Arabia (ibid 12). This has implications that veiling was not only used for seclusion but was used even on terms of protection, regardless of gender. In desert regions, even today men and women cover their entire faces to keep the very fine sand from penetrating their skin.

Heath and Guindi both point out that seclusion and veiling were equally prevalent in some Christian and Judaic traditions, mostly in Egypt. The Geniza documents proved that "Jewish women of the eleventh century veiled their faces" as they upheld the principles of "exclusionary qualities" and the institutionalization of "public segregation of sexes" (ibid 150). "In the nineteenth and early twentieth centuries, Jewish, Muslim and Christian women veiled in Egypt, but Christians in upper Egypt were more fastidious than the Muslims in veiling" (Heath 2008, 7). This statement can seem ironic because today the most severe opposition to the face veil occurs in Christian majority countries where this form of veiling is exclusively associated with Islam. However, some Muslim-majority countries, most notably Turkey, Syria and Tunisia, also have vigorous debates concerning the restriction of this form of covering of women.
"Before the coming of Islam, the noblewomen of Mecca veiled to distinguish themselves from the rabble. The prophet's wife veiled to display her social position" (ibid 9). Islamic religious history of the niqab can be traced to passages of the hadith. The hadith is a collection of sayings and examples of the life of the Prophet Muhammad that Muslims are encouraged to follow. After the Qur'an, these are the second most sacred texts. The religious duty of women in the Muslim community to wear a hijab is shown through surah 33 Al Ahzab in verses 53 and 55 of the Qur'an, but the covering of the face is not as obvious (Ali 2004, 1074 & 1075). The term hijab is most commonly translated as "screen" and only later came to refer to the headscarf (ibid 1076). Because multiple translations and therefore multiple meanings are possible, confusion of what is considered to be a "screen" and what is considered "modest" abounds. Interpretation can vary from one place to another. Hence, some interpret the sacred text as admonishing women just to cover their hair, whereas others conclude that a woman’s body must be covered entirely. The Oxford English Dictionary defines niqab as "a veil worn by some Muslim women, covering all of the face and having two holes for the eyes." This dictionary also defines hijab as "the practice observed by some Muslim women of wearing concealing clothing, especially headgear, or, in earlier use, living in seclusion. The religious code governs this." As previously stated, veiling has many connotations and refers to several types of fabrics, but what it represents also is perceived differently amongst various individuals and societies.

As much as the veil is fabric or an article of clothing, it is also a concept. It can be illusion, vanity, artifice, deception, liberation, imprisonment, euphemism, divination, concealment, holiness,. (etc.). When veiling is forced, it is repression. Yet, the veil is also a symbol of resistance against ethnic and religious discrimination (Heath 2008, 3).

Niqab's Presence in French Society Today

The idea of veiling is a physical form of seclusion in the sense that one blocks the view of oneself from society and whereby the wearer only shares view of her partially uncovered body with family and close friends. In the public sphere, interaction is limited due to the anonymity the wearer assumes by
hiding her face and thus making identification all but impossible. Today, this type of veil is associated almost exclusively with Islam. Through Arab conquests in the Middle East, the niqab had become more associated with Islam regardless of origins. The face-veil is particular to specific geographical regions, such as the niqab in Saudi Arabia and the Gulf countries, the burqa in Afghanistan, the abbaya in Iran and is a regional cultural custom rather than a religious mandate for all observant Muslims.

Scholars of Islam debate the validity of the niqab as a form of religious observance. Most agree that it is not a required religious practice but rather a personal preference and common to specific geographic regions, therefore, is more of a cultural phenomenon. Islamic scholars cannot advocate for cultural practices. Furthermore, there is no central authority in Islam and therefore differing dogma and interpretations of what is required have co-existed through Islamic history. There are no verses in the Qur'an nor the hadith that specifically mention the wearing of a full face veil, whereas some form of head covering, commonly interpreted to mean the Muslim headscarf, is referred to. There is a widespread disagreement among Muslim scholars and practitioners as to the meaning of the full-face veil. A case in point is Meherezade Laabidi, the newly elected Vice President of the Tunisian Constituent Assembly, member of the Islamist An-Nahda party and one who wears the Muslim headscarf. In response to the French law banning the full-face veil, she spoke out in support of such a ban. She wrote in 2010:

"The actions that matter are not limited to those that demonstrate our personal faith. They also - and above all - are those which are for the well-being of the society. Has the Prophet not said: 'The one most loved by God is the one who is useful to his creation.' Are we useful to God's creation, to our society, when we isolate ourselves from it symbolically by hiding our face behind the full-face veil?" (SaphirNews.com, July 6, 2010).

It is interesting to note that this opposition to the face-veil comes from an Islamist who herself wears the headscarf. This is an indication of the fact that the niqab is not a universally accepted form of attire even amongst observant Muslim women. While Laabidi is voicing her personal opinion, she is a
prominent spokesperson of Tunisia’s Islamist An-Nahda party and therefore her weighing in on the French debate carries some weight.

The wearing of the niqab in Europe is a relatively new phenomenon of the past decades. While the Muslim headscarf has been part of the European and French landscape for half a century owing to the flow of immigrants from Muslim majority countries into Western Europe, the niqab has only recently been seen in public in France and other European countries. Likewise, the niqab in North Africa is a recent phenomenon. Furthermore, in France, the most outspoken advocates of the niqab are French converts to Islam (Pathak 2011).

The niqab in France did not appear unexpectedly. As the niqab is indicative of the spread of Saudi Arabian Wahabi practices, where it is required for women to veil, Wahabism and socially conservative ideals spread in the seventies and eighties when Saudi Arabia became a large oil exporter nation and indirectly exported these social ideals with the help of money coming from the oil trade (Algar 2002, 2).

The niqab today has surpassed the religious-cultural debate amongst Islamic religious scholars into a political debate and is perceived as a threat to French ideals that arose from the French Revolution. "In the West today, the veil is rarely treated as a traditional or sacred custom but is perceived almost entirely politically" (Heath 2008, 6). In France, on July 13, 2010, a law pertaining to the banning of the full face veil in public spheres of France promulgated. This ban came into full effect on April 11, 2011 passed by the National Assembly. This law stipulates that any woman, regardless of religion, in the public spheres of France wearing a veil that fully covers their face can be fined by French policemen. "It is a small fine, but symbolically this is a huge change" (ibid 2011). If a woman is stopped in the streets by law enforcement officers, she can be fined on the spot but she does not need to remove her veil in public. Rather, French policemen have been ordered to take covered individuals to a police station and that is where they will be asked to remove their veils for identification (ibid, 2011). However,
it was not mentioned whether or not the woman concerned will have to uncover in front of a male officer or if a female one will be present.

This niqab issue is a highly politicized debate and deals with a clash of civilizations and touching on issues of immigration. However, the stances of the ban go beyond xenophobic notions and attempt to preserve the ideal of *laïcité*. The National Assembly passed the law based on the assertion that the full face veil undermines equality in the sense that it is a visible reminder and barrier in the public sphere showing a clear difference in ideals and lifestyles.

Originally, French parliament considered a partial ban inside public buildings and on public transportation. In these venues security must be ensured and identification must be possible. Supporters of this ban argued that “it is a necessary step to preserve French culture and to fight what they see as separatist tendencies among Muslims” (Erlanger, 2011). However, there is only a small percentage of Muslim women in France who partake in these "separatist tendencies" and wear the full-face veil so it is hard to understand why this practice required legislation from the French judicial system. The Interior Ministry estimates that about “2,000 women wear the niqab in France,” but Mayor Gérin of Vénissieux, is convinced of a higher number. The approximate number of Muslims in France is about six million and "the action taken seems large compared with the problem..and they accuse President Nicolas Sarkozy and his center-right party of playing politics with a generalized and unjustified fear of Islam and immigrants” (ibid, 2011). It is important to reiterate that the law itself does not mention Islam nor women but refers to the covering of the face in any public place as a security measure. Offenders face a fine of 150 Euros and have to enroll in a citizenship course" (Women in Face Veils Detained, 2011). The fact that “citizenship” is connected to covering one’s face shows clearly the concern for integration of immigrants. Another clause also says that "anyone who forces a woman to cover her face can be imprisoned for up to a year and fined up to €30,000, about $43,000" (Erlanger, 2011).
Since the law was passed, there have been protests by people who were not necessarily Muslim. One notable protest that received media coverage was the one outside of Notre Dame cathedral in Paris. Two Muslim women were detained on the grounds of being part of an unauthorized protest and an illegal gathering (*Women in Face Veils Detained*, 2011). A couple months later, on September 22, 2011, Hind Ahmas and Najate Ali, two French women, were arrested for disobeying the law and were issued fines of an average of 100 Euros (*France Imposes First Niqab Fines*, 2011). These two women were the first of 91 women who were fined by French police. These protestors said they wanted to be fined so they were able to challenge the law. A high-profile niqab-wearer and activist, Kenza Drider, insisted that wearing the niqab "is a personal choice and a right enshrined by European law." She also argued that the niqab issue is not as important as other pressing issues, such as unemployment (ibid, 2011).

However, French officials focus on upholding the principle of *laïcité*. President Nicolas Sarkozy's cabinet considered the full Islamic face veil as "an affront to the nation's values of dignity and equality" (*The Islamic Veil Across Europe*, 2010). Since government legislators are making these claims, it has an impact on society because governments produce laws that citizens must follow. The French National Assembly claims that the niqab "undermines the basic standards required for living in a shared society and also relegates its wearers to an inferior status incompatible with French notions of equality" (*Women in Face Veils Detained*, 2011).

Others argue that the niqab is indicative of women’s oppression and subservience to a man. Even when worn voluntarily, a fully veiled woman cannot freely move about or interact because she cannot be recognized as an individual. Ensuring that women are not hidden by veiling in public affords them to communicate and interact freely. Furthermore, President Sarkozy, in an attempt to preserve French national identity stated that “the rules of *laïcité* are required of everyone,” but on the other hand, they must be respected 'in such a way to not humiliate anyone" (Bowen 2007, 112). Critics of the
president have expressed the view that Sarkozy "plays up the Muslim question because he is an unpopular president in need of an easy vote-winner" (Women in Face Veils Detained, 2011). This indicates that the niqab issue reverberates widely through French society and is generally viewed with skepticism. Other critics, such as historian Joan Wallach Scott, claim that "France's ban on the Islamic veil has little to do with female emancipation." Instead, it encompasses a much larger issue involving France's fears, insecurities and aftermath affects of French colonialism. As Author, Vinay Kumar Pathak quotes Joan Wallach Scott as saying:

> According to Scott, the French have constantly targeted specific symbols, like the veil, which has come to be overwhelmingly associated with Islam. Firstly it is an attempt to assert their authority over the country's Muslim population and to further their own nationalistic and political aspirations. Secondly, the exotic and erotic representation of the veil by colonial ethnographers registers the colonizers' own fears, insecurities and shortcomings (Pathak, 4/25/11).

There are also those, like Mayor Gérin of Vénissieux, who have called the ban “a wake-up call,” a means “to eradicate this minority of fundamentalists, ‘the gurus’ who instrumentalize Islam for political reasons” (Erlanger 2011), meaning that the full face veil is not so much a religious expression but a political one and as such represents something that is fundamentally at odds with French republican values. As Olivier Roy explains: The purpose of laïcité is “not to intervene in dogma... The courts and Conseil d’état frequently reiterate this point” (Roy 2007, 23), which means that the freedom of religious expression is not what is being curtailed by the ban but that the principle of laicite trumps when there is a perceived conflict between laicite and religion in the public sphere.

Some Muslims agree with this assessment as they hold that the full face veil is not a religious requirement but rather is a cultural custom, germaine to a particular geographic region. If fully veiled women are seen as synonymous with Islam, this would shed a negative light on all Muslims. However, it is the draconian measure of a ban and the perception that this legislation is more in keeping with xenophobic notions that certain segments of the French Muslim population expressed their opposition to this ruling (Erlanger 2011). Erlanger writes that a good portion of French Muslims feel that their rights
are being infringed upon. They believe that the government should not be telling its citizens which religious attire they can or cannot wear. Erlanger cites a woman named Karima, 31, who was born in France and has worn the niqab since the age of 15 as a sign of her devotion to God. She says she feels “as if France has betrayed her” (ibid 2011). The French government counters such arguments as follows:

A State employee wearing a visible religious sign might give the impression that he serves his Church before serving the State or that there is an organic link between the State and his religious community, while a uniform rule prohibiting the wearing of religious signs avoids the appearance of a conflict of interest (Bouchard & Taylor 2008, 148).

The authors further explain that the state "must always have compelling reasons for infringing on the basic rights and freedoms of part of the population" (ibid 149). The question of this ban for those that are critics wonder if this ban infringes on ideals of a liberal democracy or modern society in general by hindering religious freedoms that are expressed through ones actions, whether they are visible or not. Some opinions on the ban deemed this legislation to be unconstitutional however, "the French Constitutional Council said the law did not impose disproportionate punishments or prevent the free exercise of religion in a place of worship, finding therefore that "the law conforms to the Constitution" (Meilhan, Orjoux, & Saskya, 2010).

As mentioned above, there were several protests that took place in Paris near Notre Dame Cathedral against the ban. However, President Sarkozy said that the burka is “not welcome“ in France. Mayor Gérin said the burqa was “just the tip of the iceberg of the spread of Muslim radicalism and separatism that threatened the French Republic” (Erlanger 2011). Nelly Moussaid, 28, a citizen of Marseille, has been wearing the niqab for two years “as a sign of faith.” She commented that “Will they manage to catch all of us, arrest us at every corner of every street?” (ibid 2011). Through this discontent, the ban has the possibility to breed disobedience in society. The principle does not seem to be cohesive in upholding the French ideal of liberty. Some advocates have gone out of their way to purposely wear a niqab in the aspirations of getting caught to challenge French police authorities
(France Imposes First Niqab Fines, 2011). As previously mentioned, controversy over the full face veil is not limited to France but has occurred elsewhere. In the following, I will refer to two francophone countries as an example of this.

**Francophone Country Comparisons**

First, I will cite the example of Canada, a liberal Western democracy and then Tunisia, a North African Muslim-majority country.

**Quebec, Canada**

Former French colony, Quebec, addressed matters dealing with secular ideals, the headscarf and the Niqab, at about the same time the French were deliberating similar issues. As in France, social problems, minorities and immigration issues all tied in to the discussion about Muslim women’s attire. To assess these matters in Quebec, the *Commission de Consultation Sur Les Pratiques d'accommodement Reliées Aux Différences Culturelles* (the Consultation Commission on Accommodation Practices Related to Cultural Differences) was established by Québec Premier Jean Charest on February 8, 2007. This commission’s investigations were conducted by two professors: Gérard Bouchard and Charles Taylor who were charged with the objective of designing "reasonable accommodations "that represent the values of Quebec as "a pluralistic, democratic, egalitarian society" (Bouchard & Taylor 2008, 17).

The discussions of this commission went beyond religious attire and included other forms of religious expressions pertaining not only Islam, but also Judaism, Hinduism, Buddhism and Sikhism. The commission referred to religious practices such as prayer gatherings in the streets or in open public areas, religious holidays such as Diwali and Eid, as well as infrastructure, such as designated religious sites: temples, mosques, and synagogues. This commission decided that “open secularism” is the best fit model for Quebec because it attempts to incorporate four principles of a balanced society: "respect for
the moral equality of persons, freedom of conscience and religion, the reciprocal autonomy of Church and State, and State neutrality" (Bouchard & Taylor 2008, 148). Regardless of the recommendations by the Commission, the National Assembly of Quebec discussed on March 24, 2010 bill 94 which would be one of the first bills that prohibit face coverings in North America. If this bill is passed, it would require any woman wearing a face covering to show their face prior to giving or receiving any form of government service. In Quebec, the number of those who wear the full face veil does not even reach the hundreds. It is estimated that no more than 90 women wear a niqab in the entire province of Quebec" (Dolski 2011).

The commission also dealt with a variety of issues and questions that arose within the context of the niqab debate. In the fall of 2007, this commission addressed the following question: "[m]any government employees wear religious signs in the exercising of their duties and how can we distinguish between what relates to our historic heritage and what breaches the rule of State neutrality towards religions?" (ibid 148 & 149). Obviously there was no simple response for these questions. The commission stated: "the way to overcome Islamophobia is to draw closer to Muslims, not to shun them. In this field as in others, mistrust engenders mistrust. As is true of fear, it ends us feeding on itself" (ibid 235). Hence, the commission advocated for “state neutrality” in matters pertaining to religion. But for state employees, certain rules may be imposed, including those that pertain to attire (ibid 149). The Canadian commission suggests:

The appearance of neutrality is important but we do not believe that it warrants a general rule that would prohibit agents of the State from wearing religious signs. If such a prohibition is better justified, agents of the State (should) display impartiality in the performance of their duties. A State employee must seek to accomplish the mission attributed by legislators to the institution that he serves. His acts must neither be dictated by his faith nor his philosophical beliefs but by the desire to achieve the purposes inherent in the position that he occupies (ibid 149).

This basically implies that government employees need to be impartial and cannot wear religious symbols that is not of the norm for Quebec. This also implies that employees cannot wear something
that hinders an employee’s performance. For the niqab specifically, this commission recommends that "a female teacher cannot wear a burqa or a niqab in class and properly perform her teaching duties" (ibid 150). There is a formal communication a teacher has with her students and the covering of the face "excludes non-verbal communication" and can affect the development of the student’s sociability" (ibid 150). But since the commission affirms multiculturalism, it suggested a compromise, i.e. allowing the headscarf but banning the niqab. Regardless of compromise, there was discontent amongst this as well because Muslim women wearing the hijab in a primary school setting will be in a place of authority and can affect a young child who is not fully developed with their own concepts of religion and has not "developed the autonomy necessary to understand that he does not have to adopt the religion of his female teacher" (ibid 150). But it can also be argued that exposing a child to diverse cultures and practices can impact their upbringing to become more inclusive and accepting. The basic guideline of this commission is for Québec to broaden its open secularism model instead of changing it. "The adoption of a provision or a legal mechanism such as a section or interpretive clause in a charter" may not be the best way of going about it for the success of this ideal (ibid 153). Rather, society requires an understanding and balance that does not hinder a lifestyle of one with a different religious or cultural background.

**Tunisia**

The situation in Tunisia differs from Canada, in that it is a Muslim majority, Arab country. However, even there the full face veil is an issue of contention. With the fall of the dictatorial regime of Zine el Abidine Ben Ali in January 2011, questions of religious freedom have come to the fore. The Ben Ali regime was decidedly secular and the wearing of even the headscarf was only allowed in certain circumstances. For the most part the hijab was associated with political Islam and more specifically the banned En Nahda party which after the first free and fair elections in October 2011 earned the majority of seats in the Constituent Assembly.
After independence in 1956 the first president of Tunisia, Habib Bourguiba, put in place the most progressive Personal Status Code in the Muslim-Arab world. Bourguiba also perceived the Islamist En Nahda party as a threat to his rule and imprisoned its leaders. After the bloodless coup of 1987, Zine el Abidine Ben Ali continued on the anti-En Nahda course with the support of the West, most notably France, equating all forms of Islamism with terrorism.

Before the revolution in January 2011, the wearing of the Muslim headscarf was restricted and the niqab was banned. Since the revolution, religious freedom was re-instated and at present there is a debate concerning the niqab, especially on university campuses. This debate once again proves the complexity of the issue and that arguments can vary across locations even if it involves traditions a cultural or religious group is familiar to.

What may be assumed to be acceptable Muslim clothing in one place may not be so in another. In Tunisia, women are liable to undergo police intervention if they veil, while in Saudi Arabia, they are punished if they do not. This suggests that we should broaden our scope away from notions of a single "Islamic culture," to encompass women in multiple Islamic contexts: in Islamic states, in secular Muslim-majority states, in Muslim families and communities...etc. (Heath 2008, 195).

Most recently on university campuses, veiled students are prohibited from attending classes or taking exams in Tunisia. On University of Manouba's campus, female students along with a group of Salafi men protested for their right to wear the niqab and for a prayer room. "Their protest has resulted in the continued closure of one of Tunisia's largest campuses since December 6, 2011 and has kept an estimated 13,000 students from attending their classes." (Marks, 1/6/2012). The protest, sometimes referred to as the "Salafi sit-in," comes on the heels of the Tunisian revolution and forces the newly democratic country to come to terms with its own, new notions of freedom of religious expression.

The main reason school officials prohibit the full face veil are "security and pedagogical concerns." University administrations also believe that institutions of higher learning should be "a fortress of secular enlightenment" (ibid 1/6/2012). In terms of safety, Tunisians are concerned with the situation where one could be apprehensive about identification purposes or hidden weapons under the
veil. In terms of communication, Tunisians are concerned that hidden faces affect the teaching process and there could be a potential for cheating as a students’ identity cannot be ascertained. Tension grew a great deal that university administrators referred the case from University of Manouba to the help of the Ministry of Higher Education. However "[t]he Ministry of Higher Education hesitated to involve itself in the controversy, possibly afraid that sending the police to forcibly remove protesters will exacerbate an already volatile situation and serve as an unwelcome reminder of the former regime's heavy handed treatment of protesters" (ibid 1/6/2012). This lack of action from the Ministry of Higher Education caused professors to create an ultimatum between themselves and these students that are protesting. A lecturer in Gender and Islamic studies, Amel Grami, in response to verbal harassment from Salafi students exclaimed that: "We needed a categorical answer- either these Salafi sit-inners go or we stay" (ibid 1/6/2012). To come up with a solution, faculty needed creative ways to deal with the issue. One option that was created by a dean at the University of Tunis that allowed three students wearing the full face veil to take their exams in a classroom with a female proctor and students that are blind (ibid 1/6/12), arguing that a fully covered face is akin to visual impairment.

The examples of Quebec, Tunisia and France all propose solutions for the issues they see with the niqab. France's solution was the overall ban just this past year. As was analyzed earlier, it was not the most harmonious solution as there is still discontent amongst its citizens. In Quebec, one who wants any form of government employment is restricted when they wear the full-face veil even if they have the qualifications. In Tunisia, if a student wants to wear a niqab, she is being equated with special needs students. These measures may seem a bit extreme, comical, or clever, but it exemplifies the difficulties faced in this situation.
Conclusions

The dispute concerning religious attire in the public sphere, particularly when it is associated with Islam, is a topic that may not be resolved in the near future. This thesis has focused on the controversy in one country, France, yet the issues surrounding the hijab and the full-face veil are questions that are addressed in several nations worldwide, mostly in Europe, the Middle East and North Africa. Each time an end of the debate seems in sight, laws are enacted to settle the wearing of Muslim women’s attire, another controversy arises somewhere else. Seven years after banning “ostentatious religious symbols” in French public schools, another law was enacted that forbade the wearing of the full-face veil in public. Even though the ban of the hijab along with other religious symbols was directed at public schools, women who wore the headscarf in other venues experienced discrimination. The political elite offered different reasons for each legislation, i.e. upholding the principle of laïcité, security, or the republican idea of gender equality. Nonetheless, there are other reasons not specifically addressed in this thesis. From the late 1990s to the early 2000s, the issue of religious apparel was not of great concern. It came up in public discourse again in the aftermath of 9/11. It was also a theme that resonated with a certain population in France and could be used to gain votes in domestic elections. However, none of these laws have succeeded in bringing a halt to the controversy surrounding Muslim women’s attire.

After the 2004 and the 2011 law came into place, in 2012, the issue of religious attire of Muslim women was yet again in the spotlight. This time around, the focus was on female Muslim athletes. The controversy revolved around an incident on the soccer field on March 18, 2012 when a referee in Narbonne refused to oversee a match between Narbonne and Petit-Bard-Montpellier because some of the players wore the headscarf.

In the past the International Football Federation (FIFA) had ruled that veiled women were not permitted in official FIFA sponsored matches. However, a week before this situation in Narbonne
escalated on March 6, 2012, FIFA reversed this ruling and allowed veiling on the soccer field. In spite of the ruling of the most important football association, the French referee decided to defy this new ruling and kept the veiled soccer players off the field. With the 2012 Olympics approaching, many organizations have been pressing for change. After much wrangling, the International Federation of Association Football (FIFA) and the International Football Association Board (IFAB) decided to allow the use of hijabs on the field. Subsequently, special hijabs were designed with proper safety provisions and velcro straps as athletic wear (Black, 2012). This loosening of the rules may seem like a solution for women’s participation, but it still did not put an end to the controversy surrounding Muslim women’s dress in France.

As on other such occasions the organization Ni Putes, Ni Soumises and others have protested against the FIFA decision to allow headscarves on the soccer field. Ni Putes, Ni Soumises has consistently advocated for maintaining laïcité in the public sphere. Hence, sport events should not be a venue for religious expressions. There is also a fear that intra-communal tensions will rise again among veiled and non-veiled athletes where non-veiled player may experience harassment because they are perceived as "loose girls."

It seems that the issue dealing with religious attire – especially as it pertains to Muslim women – will be an endless topic that will continuously be debated in various parts of the world. Once a seeming resolution is found, there will a temporary halt only to be resumed in a slightly different context. Until the concept of multiculturalism is genuinely accepted, there will always be tensions. When it comes to matters such as religion, the situation is very delicate and there may not be an ultimate answer. There is no one view that can be presumed to be superior to others. It must be reiterated that there is no right or wrong way of religious expression. It is possible to envision that different lifestyles can coexist harmoniously with time and effort, provided these differences will no longer be so very much at the center of public discourse and more importantly will not be instrumentalized in political debates.
Modernity and secular values seem to be locked into an irreconcilable conflict with the demand for freedom of religious expression, especially as it pertains to Muslim women’s attire. While the French ideal of equality should definitely be preserved, this seems increasingly difficult when Islam is constantly singled out for particular practices. The perceived problem of Muslim women’s clothing cannot be legislated out of existence as the above thesis has shown. Therefore, a new approach is needed that does not criminalize expressions of faith but genuinely promotes the ideas of equality, fraternity, liberty for all French citizens, regardless of their religious background.
Works Cited


