

Hijab Ban in France; A Background:

The **hijab ban in France** is a continuous and repetitive attempt of the French government, in an extension of many other discriminatory laws passed over the years, that violate Muslim women's religious rights. France has had a long history of isolationist ideals, most evidently for their stance on immigration. According to the United Nations Human Rights Office of the High Commissioner, France has signed and declared most of the 18 Ratifications on Human Rights, including the Convention of the Elimination of All Forms of Discrimination against Women or CEDAW; and the International Covenant on Economic, Social, and Cultural Rights or ICESCR; *except* for the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families or ICPRAMWMF (OHCHR).

Article 7 of the ICPRAMWMF ensures human rights and respect to all "migrant workers and members of their families within their territory... without distinction of any kind as to sex, race, color, language, religion or conviction, political or other opinion, national, ethnic or social origin..." (OHCHR). In the case of France, immigration was heavily intersecting with gender, religion, and race. To further understand France's stance on Muslim women, it is incredibly important to contextualize their immigration policies.

Only until 1967 that the Muslim population in France topped a million (Migration News). Currently, France has a 5.7 million Muslim population, which is the largest minority group in Europe (Al Jazeera). Annually, there are about 100,000 immigrants that enter the country, and about 40 percent of refugees come from Africa (Migration News). At the beginning of the 2000s, conservative politicians started legislating and pushing forth Assimilationist Policies regarding immigration (Zappi), consequently forcing immigrants to abandon their culture, traditions, and ultimately, their identity. There was "explicit pressure on immigrants to adopt quintessentially French behavior and traditions" (Zappi).

France's Religious Liberty Violations:

During the rise of assimilationist policies on immigration, there was also strictly enforced secularism. Strict "secularism" in France has often been argued as a "crucial element of social peace and national cohesion" (Moore 237). However, such is also argued to be the "justification" for banning the use of articles of clothes related to religion. The intervention on Muslim women's religious freedom began way back in 1994 during Fall when the "French government officially banned girls who wear 'ostentatious' headscarves from attending public schools" (Migration News). Despite having signed both the CEDAW (in 1983) and ICESCR (in 1980), which protect women and girls, including their right to religious expression and practice, France has continued to pursue discriminatory laws, violating Muslim women's religious rights.

In 2007, French President Jacques Chirac stated that "there is something aggressive about children wearing the headscarf to school" (Moore 237). Eventually, in 2010, France enforced a law stating that "no one may, in public space, wear any article of clothing intended

to conceal the face” (OHCHR). This law banned the use of the niqab, a full Islamic veil, in public. France’s decree on the ban of niqab was argued to be for the goal of communal living and security (OHCHR). However, the Human Rights Committee declared in 2018 that France’s law violated women’s rights and religious freedom. More specifically, not only has the law consequently made Muslim women who wear niqab be confined to their homes but also ultimately “impeding their access to public services and marginalizing them”(OHCHR). Interestingly, the French delegation failed to argue why “hiding one’s face is forbidden for religious reasons, while it is authorized in other contexts such as sports, or artistic settings” (United Nations).

In 2012, “two French women were prosecuted and convicted for wearing articles of clothing intended to conceal their faces in public” (OHCHR). Then again, recently, in April 2021, the French senate introduced a bill (now, a law *2019) that prohibits any “conspicuous religious sign by minors and of any dress or clothing which would signify inferiority of women over men” in public (Al Jazeera). Firstly, the phrasing of “clothing which would signify inferiority of women over men” is rooted in a very Western-centric and colonialist view of women’s “empowerment”. It is from a false notion that Muslim women who wear articles of clothing covering their bodies are somewhat “oppressed”. Such an absurd and ignorant opinion fails to recognize the aspect of the freedom of religious expression, agency and individuality of Muslim women. There is no “standard look” for an empowered woman. A woman does not need to show much skin to signify confidence and empowerment. A woman’s decision to choose whatever clothes to wear is entirely their own and must be respected as is without judgement and pressure from society. Ironically, while the West, including France, has long “advocated” for “my body my choice” in many Feminist-related advocacies, such seem to have a reservation when it comes to Muslim women’s rights.

The US on Religious Liberty, in Comparison with France:

While many believe that the US is a more constructive space for religious freedom, such a statement is to be blind to the ironies of the US government and society. The First Amendment in the US Constitution states that all have the “rights to practice their own religion or no religion at all” (American Civil Liberties Union). There is also the Establishment Clause which “prohibits the government from encouraging or promoting” any religion in any way (ACLU). And lastly, the Free Exercise Clause protects one’s rights to practice or not religious worships (ACLU). However, these constitutional amendments do not always work as guaranteed, and as we’ll discuss, the US government and society have several reservations about them.

According to an article by Moore, the US Pledge of Allegiance and the placing of the Ten Commandments in government buildings and courthouses show initial signs contradictory to religious freedom (238). The US Pledge of Allegiance contains the phrase “One nation under God,” which constitutes predominantly Christian ideals. Similarly, the Ten Commandments are also derived from the Christian bible. In 1971, through the *Lemon v Kurtzman* case, the “Secular Purpose test” was established. Essentially, this case purposefully “prohibit[s] government action if it is intended to favor one religion over another or tends to promote adherence to religion in general” (Moore 242). Clearly, the placement of the Ten

Commandments in US courthouses and the Pledge of Allegiance show contradictions to the First Amendment.

In 2005, in the *Van Orden v Perry* case, where the court voted regarding the “display of the Ten Commandments in a public park at the Texas State Capitol”, Chief Justice Rehnquist concluded that “while the Commandments are religious, they have an undeniable historical meaning. Simply having religious content or promoting a message consistent with a religious doctrine does not run afoul of the Establishment Clause” (Moore 241). Unfortunately, such rulings show the inconsistencies of the First Amendment.

The rise of Islamophobia after the 9/11 attack also has highly contextualized the discrimination against Muslim women. Moore explains that the US “has made objects associated with Muslim-ness, such as hijab”... become a symbol of ‘Islamic threat’ (240). Indeed, such portrayal was not only evident through politician’s rhetorics at that time but also, most significantly, the media. From the perspective of the US American Society, “the likeness of the Muslim woman clad in the hijab stands in stark contrast to the freedoms associated with democracy and secularism” (Moore 239).

In 2004, Lubna Hussein was told in order to enter the municipal swimming pool, she had to take off her hijab and cloak (Moore 243). The ACLU then “filed a civil rights suit against the city of Omaha on behalf of Hussein” (Moore 243). In 2005, the school policy was overturned, and Hussein won the case. In a similar case in Oklahoma, a sixth-grade schooler, Nashala Hearn, was suspended from her school a couple of times because of her hijab (Moore 244). Hearn’s school had a dress code that banned “bandanas, hats, and other head coverings” (Moore 244). The school district was later indicted for violating the 14th Amendment, which prohibits states from using discriminatory dress code policies (Moore 244).

The most recent public discussion regarding the religious freedom of Muslim women in the US was after the election of two female Muslim congressional representatives in 2019. Since 1837, there has been a law that “bans representatives from wearing hats on the House Floor” (Law). In 2019, “the House voted to permit religious headwear on the floor for the first time in 181 years” (Law). These religious headwears include kippahs, hijabs, and turbans (Law).

Cultural Superiority and Colonialist Mentality; their Effects on Religious Freedom:

Both the US and France share many problematic discriminatory policies on religious freedom, especially often targeted towards Muslim women’s religious rights. Despite these two countries having high positions in the United Nations, often imposing significant influence on decisions and crafting Human Rights policies, they could remain oblivious to violations of their own.

In the West, the hijab, niqab, and other religious clothing worn by Muslim women are seen as a “synecdoche for extremism and the oppression of women in the name of religion” despite that “most Muslim women do not wear it and many of those who do consider it to be protected by the constitutional guarantees of religious freedom” (Moore 239). According to an article by Julia Harth, discrimination towards Muslim women is rooted in “inherent power inequity implanted by colonialism sustained notions of cultural superiority in these discourses and representations” (Harth 1). Western media have created an impression and representation of Muslim women as “subservient objects of oppression” (Harth 2). The toxic cultural

superiority of the West has often attempted to invalidate Nonwestern world views, including religion.

On the one hand, any form of “membership in a minority religion can be an important source of identity and experience that lends meaning to existence in a pluralistic society” (Moore 239). Moreover, Celene Ibrahim writes in her article in the New York Times that hijab not only symbolizes the “piety and sincerity of a female Muslim” but is also a way for Muslim women’s agency to protect their bodies from “unwelcome gazes and other forms of male chauvinism (Ibrahim). Ibrahim furthers that religious clothing such as the hijab is a reflection of “inner humility” and solidarity with other “readily identifiable Muslim women” (Ibrahim).

Global Prospects on Human Rights and Religious Freedom:

The United Nations Commission on Human Rights (UNHRC) and its global initiative on treaties that protect all humans’ rights generally indicate reasonable steps for a thriving society. While it is ideal that signatories cordially follow these treaties’ demands, oftentimes, such is not the case.

The National Organization for Women (NOW) indicates several significant successes of CEDAW and the countries that ratified it. For instance, in Honduras, women farmers are now able to access agricultural training and loans (NOW). Also, countries like Austria, Germany, Guatemala, the Philippines, Poland, Portugal, and many more have better programs and policies for maternity and paternity leave (NOW). Indeed, these are just a few of many successful initiatives led by the UN, CEDAW, and its signatories. However, the effectiveness of these treaties is limited in many ways.

First, the UN CEDAW is only applicable to countries that sign them; also, even if they do, there is no enforcing “police” that can regulate, stop, and prevent cases of human rights abuses. There may be “soft” tactics such as international and media pressure that the UN can instigate. However, these are rarely successful in ending injustices. Also, for “superpower” countries like the US, France, and China, with their veto powers in the UN Security Council, they are able to evade policies, regulations, and human rights issues they wish to. With all these limitations of the UN’s powers in enforcing their human rights policies, violations remain.

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