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FRANCE: HUMAN RIGHTS, RELIGIOUS FREEDOMS & A SECULAR SOCIETY?

BY KRISTEN WALDER

The issues of human rights and religious freedoms have been at odds with one another in France ever since a government-sponsored commission issued the Stasi Report, recommending a federal law banning "ostensible religious symbols" in public schools on December 11, 2003. Specifically, such a ban would target Muslim hijab or headscarf, Sikh turbans, Jewish skullcaps and large Christian crucifixes. Since that time, French President Jacques Chirac has not only announced his support for such a law, but on March 3, 2004 the French Senate passed a majority vote favoring the ban by 276 to 20. The vote reaffirmed the lower chamber of French Parliament's previous February 10th approval of the ban by a margin of 494 to 36. The measure states in part:

In respect for freedom of conscience, and the pure character of the institutions, behaviours and signs expressing a religious or political affiliation are prohibited in schools and colleges. Any appropriate sanction is to be taken after the pupil is invited to conform to his obligations. The prohibited behaviours and religious signs are open signs, such as large crosses, veils, or kippas. Discrete signs are not included, for example medals, small crosses, stars of David, hands of Fatimah, or a small Koran.

Chirac avowed that the ban on religious symbols comes at a time when "nothing less than the secular identity of the French state is

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2 Id.
3 Id.
4 Id.
at stake.” He further noted, “If France succumbs to the demands of its religious communities, it would sacrifice its heritage. It would compromise its future. It would lose its soul.” The newly re-found concern over France’s separation of church and state may be to prevent the advancement of religion into public schools, but at its roots are the “increasing demands of France’s growing Muslim population in general and the wearing of the Islamic veil in particular that infused the issue with new urgency.”

France has the largest population of Muslims in Western Europe, totaling approximately five million, and while such a ban does not single out any one religious denomination, it is the Muslim population who will ultimately bear the greatest sacrifice, for the hijab is a religious "must" for close to 2,000 Muslim schoolgirls. Historically, the word “hijab” comes from the Arabic word “hajaba” meaning to hide from view or to conceal. Allah bestowed the hijab upon Muslim women in order so that they would have ultimate control over their own bodies. One Muslim woman who voiced her opposition to the proposed ban protested, “The hijab is a freedom, our right. It is not a symbol.”

The oppression of Muslim women is at the heart of this debate because the ban may ultimately result in the exclusion of Muslim girls from school. Rahma Slimane, a 19-year-old senior and straight-A student in Paris, France, adorns a French flag over her hijab as she protests for her freedom and right to learn. Although France is portraying a “clear message that secularism is a

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6 Id.
7 Id.
9 Naheed Mustafa, Hijab (Veil) and Muslim Women, at http://www.usc.edu/dept/MSA/humanrelations/womeninislam/hijabexperience.html.
core value of the French republic,”¹¹ in their hunt to maintain separation, they are also demanding choice. One woman who had been expelled from school in 1990 expressed, “I will tell my daughter to take off the veil. I do not want her to relive my experiences.”¹² Moreover, Muslim girls who have already fallen victim to expulsion for adorning the veil commented that they had trouble keeping up with their studies via correspondence courses.¹³ Such a predicament is ironic for France; a nation who prides itself on its Declaration of the Rights of Man and the Citizen, which was enacted after the French Revolution in 1789 and considered to be one of the founding declarations on human rights.¹⁴

The proposed legislation has not only provoked an outcry in France, but has been met with grave opposition throughout the world. In fact, protests were held in cites such as Amman, Jordan; Istanbul, Turkey, and Beirut, Lebanon.¹⁵ Additionally, a 15-year-old Muslim girl who was sent home to change due to her traditional religious dress in London has recently brought an action against her school.¹⁶ The debate over the adornment of the hijab has been met with both supporters and opponents alike. While supporters argue that the ban is necessary in order to maintain secularism and improve upon assimilation, critics argue that it will heighten the Muslim plague of discrimination. The French League of Muslim Women, who uphold France’s secular law, are outraged. Noura Jaballah, president of the League stated, “I agree integration is failing, but it’s not because of the veil. It’s because of the bigotry of the common Frenchman, and now he will feel more inclined to spit at us.”¹⁷ Surprisingly, however, Dalil Boubakeur, chairman of the French Council of the Muslim Faith,

¹² *Id.*
¹³ *Id.*
stated that he was opposed to protests against the ban claiming that, "We have to respect the law. Muslims cannot be above the law."\textsuperscript{18} Boubakeur believes that it simply is not possible to maintain secularism in a Western state such as France, while allowing the Muslim minority to integrate religion into public forums.\textsuperscript{19} Moreover, Co-author of the proposed ban, Professor Gilles Kepel, said in response to the idea of religious tolerance, "We will have a sort of apartheid. Everyone will be proud to defend his own identity – I am a Muslim, I am a Christian, I am a Jew first. And then a Frenchman, second. This is not acceptable."\textsuperscript{20}

One hole in the law concerns the fact that such a ban will only affect those pupils in attendance at public institutions; not private. The Times explained this discrepancy as "warped logic," in the sense that "private schools could escape having to ‘enforce secularism,’ thus allowing richer Muslim students to keep wearing the veil."\textsuperscript{21} In contrast, it is satirical to note that while giving his justifications, Kepel argued that the ban was necessary in order to prevent having a public school system like that of the United States "where the kids of the rich white middle class go to private schools and the public school system is left for the poor and the blacks. What the French are keen to defend is a public school system where there is a social mould, and some sort of integration."\textsuperscript{22} While Kepel’s argument for integration is commendable, there is no reason why Muslim girls would not leave the public school system in order to express themselves freely in the private sector.

The debate over religious expression within the public sector will live on for eternity. The two forums are in constant struggle and the need for balance is a must not only to preserve secularism, but to ensure the liberties granted onto individuals. Meanwhile, young women are being asked to make a choice that should never have to be made: religion or education? The fate of

\textsuperscript{18} French Muslim Chief: Respect Law, at http://cnn.worldnews.com (Feb. 12, 2004.).
\textsuperscript{19} Id.
\textsuperscript{20} Maceda, supra, note 17.
\textsuperscript{21} GUARDIAN NEWSPAPERS LIMITED, Feb. 11, 2004.
\textsuperscript{22} Id.
Slimane, and millions of others, will be determined in the coming months when Chirac will make a final determination as to whether there is room for religious symbols in school. "Living in what is supposed to be a democratic and free country," can it not be said that, "just as it is wrong to force a girl to wear a headscarf, it is equally wrong to force her to take it off."  

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23 Mustafa, supra, note 9.