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Unveiling the Headscarf Debate; A Study of Multiculturalism

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Unveiling the Headscarf Debate: A Study of Multiculturalism

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Master's Thesis

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ABSTRACT

Thanks to the deepening of globalization, we live in an increasingly diverse world. International migratory patterns bring people of different, often less familiar, cultures to other parts of the world, including the West. For some, assimilation into a dominant culture and broader national identity seems appropriate; for others who want to preserve their unique identity, there is a struggle in accommodating to the new norms and behaviors of their host country. This paper attempts to survey the challenges of multiculturalism; more specifically, it reviews the difficulty in integrating non-western norms into western culture. As I will discuss in greater detail, I hypothesize that even though in some situations non-western culture seems threatening to western culture, this should not serve as a pretext for the abrogation of human rights, except when harm to self or society will result. In order to defend my hypothesis, I will use the case of the headscarf – a controversial piece of cloth that has shaken up governments and societies throughout Europe. Although it represents non-western culture in its mildest form, it has come to be perceived as threatening to the western principles of secularism and gender equality. I will use the case studies of France and Turkey to examine the issue. While both countries have overlapping but also varying reasons for finding the veil threatening, they have cited the separation of church and state as justification for banning the headscarf. As no harm can be proven, this to me is an abrogation of human rights, including freedom of religious expression, the right to education and most importantly, the freedom to *choose*.

Chapter I: Introduction

In September 2010, two anonymous students took to the streets of Paris dressed in a waist-length *niqab*,¹ mini-shorts and high heels. As they sashayed through the city, they visited several government buildings, stopped traffic, waved to onlookers and posed to take pictures. The edgy video that captured the attention-grabbing stunt, titled “Niqabitch,” was made by two women questioning the “unconstitutional” French ban on headscarves in public schools and government buildings.² While the short video quickly became an internet sensation in Europe, varying interpretations of the video’s message have ranged from the imperialist exotification of the veil to the dehumanization of women to the rise of Islamophobia to freedom of choice.³ Regardless, the students made a bold political statement that illustrated the juxtaposition of East and West, covered and revealing, sacred and modern.

Today, we live in a world that is increasingly focused on the spread of democracy and the value of individual liberty. As a result, new issues arise that challenge the norms and behavior of individuals, states, and the international community. As I write these words, schools in the Netherlands are caught in a deadlock about whether or not to ban the headscarf. In January 2011, the Equal Treatment Commission responded to a case in Utrecht where 50 students objected to a new dress code that required 90 percent of their faces to be visible. They were prohibited from concealing their eyebrows or chin, as it

¹ A *niqab* is a veil worn by Muslim women that covers the face, revealing only the eyes.

² Niqabitch, “Minishort and Niqab stroll ‘niqabitch’ in Paris”, *Rue89*, September 30, 2011, accessed March 26, 2011, <http://www.rue89.com/2010/09/30/minishort-et-niqab-balade-provoc-dans-paris-avant-la-loi-168779>.

³ Fatemeh, “Does NiqaBitch Enrich the Burqa Ban Debate?”, *Muslimah Media Watch*, October 5, 2011, accessed March 26, 2011, <http://muslimahmediawatch.org/2010/10/do-the-niqabitches-enrich-the-burqa-ban-debate/>.

was said to hinder communication between teachers and students.⁴ The students complained that school officials used a ruler to ensure that they were abiding by the dress code. Although its ruling was not legally binding, the Equal Treatment Commission backed the school, stressing the importance of communication and claiming that the rule applied to everyone and included a ban on hairstyles that cover the eyes. In an earlier case, the Equal Treatment Commission cited religious discrimination when a college in Volendam banned the headscarf, as the school claimed that it conflicted with its Roman Catholic principles.⁵ A local Dutch court upheld the ban. Political parties are heavily divided on the issue as well, as they clash on whether the ban is justifiable and legitimate. One Dutch parliamentarian, Geert Wilders, proposed a headscarf tax, or rather, “Head Rag Tax,” in order to create a “better environment [since] many Dutch are irritated by the pollution of public space by Islam.” He continued by saying that in order to reclaim the country (and rid the country of non-western immigrants that usurp state benefits), the Dutch must take action. He stated:

... Our streets in some places are increasingly looking like Mecca and Tehran. Scarves, hate-beards, burkas, men in long weird white frocks. Let us do something about that. Let us start to reconquer our streets, and ensure that the Netherlands will look like the Netherlands again. Those headscarves are a true sign of oppression of women, of subjugation, of conquest. It is a symbol of an ideology that is out there to colonize us. Therefore: it is time for a big spring-cleaning of our streets. If our new Dutch citizens want so badly to show their love

⁴ “School can restrict headscarf size, but only for new pupils,” *DutchNews.nl*, January 25, 2011, accessed October 20, 2011, http://www.dutchnews.nl/news/archives/2011/01/school_can_restrict_headscarf.php.

⁵ The most common form of head covering Muslim women don is the *hijab*, which covers the hair, and oftentimes ears and neck.

for that seventh-century desert ideology, then they should rather comfortably do that in a Muslim country, but not here, not in our country.⁶

While a more extreme example of a relevant political reaction, Wilders' speech illustrates the intensity of the debate in the Netherlands.

Now what is puzzling about the debate is that while the West stresses democracy and secularity, the debate has often veered from these political ideals. One important western norm is that of individual and civil liberties, as put forth by philosopher John Stuart Mill, who claimed that in matters concerning oneself (where others are unharmed), an individual's "independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign."⁷ This includes the right to liberty of conscience, thought, feeling, and opinion, be it on any subject, "practical or speculative, scientific, moral, or theological"; liberty of tastes and pursuits, of lifestyle; and liberty to unite with others for any purpose, as long as it is with one's own free will and does not harm others.⁸ This western notion of individualism limits the power of the state *and* society ("the majority") by ensuring a person's moral and economic freedom. It stresses the individual's choice to live life as he/she deems fit, without the influence and control of society or government. It also ensures the safety and security one feels in freely expressing those choices, as he/she should be able to do so without undue pressure or harm to others.

On a sociopolitical level, there is an important western tradition of separating the public and private realms. According to Morton J. Horowitz, this distinction emerged in the sixteenth and seventeenth centuries "out of a double movement in modern political

⁶ Geert Wilders, General Debate - Dutch Parliament, September 18, 2009, accessed October 20, 2011, http://www.geertwilders.nl/index2.php?option=com_content&do_pdf=1&id=1595.

⁷ John Stuart Mill, *On Liberty*, (Kitchener, Ontario: Batoche Books, 2001), 13.

⁸ *Ibid.*, 15-16.

and legal thought... [these rights came about] for the purpose of setting limits on state power, both over property and religious conscience... [they] were not only efforts to incorporate into law what one writer has called a philosophy of 'possessive individualism,' but also to provide an important basis for arguing religious toleration."⁹ Many European governments emphasize secularism, a separation between church and state. However, it appears that with increasing infiltration of non-western norms and a subsequent boost in multiculturalism, states struggle in dealing with the "other." The fact that secular countries are interjecting state (whether on a national or local level) policies into the private, religious sphere is perplexing.

This paradox suggests that multiculturalism is in fact easier in theory than in practice. It shows the difficulties states face in confronting the intersection between religion and politics, while maintaining respect and tolerance in a multicultural world. The assimilation of ethnic communities into the pre-existing order of western societies proves to be challenging. Furthermore, as Samuel P. Huntington notes,

The increased extent to which people throughout the world differentiate themselves along cultural lines means that conflicts between cultural groups are increasingly important; civilizations are the broadest cultural entities; hence, conflicts between groups from different civilizations become central to global politics.¹⁰

The headscarf controversy serves as a microcosm for the broader issue on the international level -- the constant struggle between East and West, the clash of civilizations, and the challenges in achieving pluralist cultures in a diverse world.

⁹ Morton J. Horowitz, "The History of the Public/Private Distinction," *University of Pennsylvania Law Review* 130, no. 6 (1982): 1423, accessed October 20, 2011, <http://www.jstor.org/stable/3311976>.

¹⁰ Samuel Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Touchstone, 1996), 128.

More specifically, this brings in questions about the acceptance of non-western customs in the West. Are there certain norms that violate or threaten western culture in such a way as to support to the limitation of human rights? Do these norms threaten the way of life for those living in the West in such a way as to rationalize certain state responses? While these issues will be addressed in the next chapter, it is crucial to emphasize the importance of human rights in the discussion. The headscarf debate does not only concern the way that norms and values influence state behavior, but also human (and women's) rights. Although I will discuss this in greater detail in Chapter 3, the headscarf serves as both a religious and/or cultural symbol. In the grand scheme of international relations, the headscarf controversy can be linked to the inability of societies to reconcile religion and politics. In my opinion, whether implemented by a theocracy or secularly-driven republic, policies such as those regarding the headscarf ultimately hinder an individual's basic human rights – to personal expression, religious freedom and overall liberty. It is thus highly relevant to study the question in today's complex world, as well as in the discipline of international relations.

In this paper, I will hypothesize that even though there are certain situations where non-western culture can be deemed threatening to the western way of life, this does not warrant the denial of human rights, except in situations where it will bring harm to self or others. In the next chapter, I elaborate on this and other aspects of my research design.

Chapter II: Research Design

Hypothesis

For the purpose of this paper, I will question and test the following hypothesis:
Even though under certain circumstances non-western culture can be seen as threatening to western culture, this should not serve as a pretext for the abrogation of human rights, except in situations where the non-western culture can bring harm to self or others.

It is important to note that while I will be focusing on integration problems with respect to western culture, a similar argument can be made with respect to western norms being accepted into non-western culture. In many parts of the non-western world, there is a strong resistance to the spread of western culture and norms. Responses to the spread of western culture can also lead to an abrogation of human rights – be it in the form of government policies opposing certain behavior or a negative societal response. However, in this paper, I will be focusing on the aforementioned argument, as it is related to the subject I will discuss later – the western response to a form of standard Islamic dress.

Research Design

In order to address this hypothesis, I will use the *hijab* not only to illustrate non-western culture, but as a human rights issue. Furthermore, I will use the case studies of France and Turkey to support my hypothesis. While both countries cite secularism and the promotion of western ideals (such as democracy and gender equality) as reasons for the headscarf ban, they are unique cases. In France, where women tend to wear the veil

for religious reasons, the ban impacts the idea of freedom of religion. The French government is concerned with maintaining a separation of church and state and preserving a dominant French national identity. The headscarf is defined as a probable threat to public order because it interferes with these founding French principles. In Turkey the *hijab* is more of a political symbol and the ban is seen by many as abrogating the rights to personal expression and free thought. The Turkish government also works to keep a secular, Turkish identity; however, the ban is also a reaction to the fear of non-westernization and a return to the political Islam that existed during the Ottoman Empire, as well as parts of the non-western world today. In both countries, the veil is perceived by authorities as threatening to western culture, but because there is little evidence to show that it is harmful to self or society, it is maintained in this paper that the ban should not serve as a pretext for the abrogation of human rights.

In order to lay the foundation for my argument, it is first important to understand the conditions that lead to western culture not accepting non-western norms. However, before doing so, I must clarify some concepts.

Definitions

Firstly, we must define *culture*. Anthropologist Clifford Geertz is well-known for his study of culture. In his work “The Interpretation of Cultures: Selected Essays,” Geertz explains: “Believing, with Max Weber, that man is an animal suspended in webs of significance he himself has spun, I take culture to be those webs, and the analysis of it to be therefore not an experimental science in search of law but an interpretive one in

search of meaning... Culture is public because meaning is.”¹ Culture is therefore “a historically transmitted pattern of meanings embodied in symbols, a system of inherited conceptions expressed in symbolic forms by means of which men communicate, perpetuate, and develop their knowledge about and their attitudes toward life.”² Furthermore, “understanding a people's culture exposes their normalness without reducing their particularity... It renders them accessible: setting them in the frame of their own banalities, it dissolves their opacity.”³ In other words, culture is the context in which people live. Since he defines social structure as the “economic, political, and social relations among individuals and groups,”⁴ culture is not something to which we can attribute social events, behaviors, institutions, or processes. It is not a force that causes the aforementioned, but rather the means by which we can observe people’s behavior.

Furthermore, according to anthropologist Jack David Eller, culture is an important political tool that is difficult to dispute, and therefore can serve as an asset.

Culture is a group’s seal of authenticity and its warranty of worth, serving as a gloss, a badge, and a weapon for a party in the war of *identity politics*... [It] is a popular asset or weapon in contemporary politics because it is such a potent one. For one thing, claims on the basis of culture are difficult to defeat or contradict; any such attempt may be condemned as ‘racist,’ ‘elitist,’ ‘oppressive,’ or ‘genocidal’ or given some other opprobrious label. Injecting culture into the political debate gives it a moral tone *on both sides*, pitting fundamental realities and unimpeachable truths against each other. And since there is no ‘cross-cultural

¹ Clifford Geertz, *The Interpretation of Cultures: Selected Essays* (New York: Basic Books, 1973), 5 + 12.

² *Ibid.*, 89.

³ *Ibid.*, 14.

⁴ *Ibid.*, 362.

truth' or standard, there is no way to verify – or more importantly, *to falsify* – a group's claims.⁵

Eller also maintains that while it is sometimes covertly or overtly suggested otherwise, there is no argument that one culture is better than another; “rather, cultures are merely different, which is supposedly neutral.”⁶ I will discuss the issues relating to integrating cultures shortly, when defining *multiculturalism* and *assimilation*, the latter often involving the adoption of cultural norms or values based on a perceived superiority.

I will frequently use the terms *western* and *non-western* to describe a particular type of culture, composed of specific norms, values, political systems, social structures and/or beliefs. *Western* culture emerged from European civilization, and includes norms such as those previously discussed – democracy, individualism and public/private distinction. The term *non-western* is often associated with eastern culture, as it is prominent in Asia and the Middle East, as well as Africa. While consisting of a range of subcultures, religions and philosophies, non-western culture has a strong emphasis on cooperation and community, over the individual.

Cultural *norms* are the standards or expected behaviors of a particular society or group. They are implicit or explicit rules that have been established over time to guide our interactions with others. They shape our values, beliefs, attitudes and behaviors, so much so that they “determine the meanings we attach to words.”⁷

Multiculturalism can be defined as a condition in which several distinct cultures coexist (e.g., within a state). In ethnic studies concerning immigrants, assimilation and

⁵ Jack David Eller, “Anti-Anti-Multiculturalism,” *American Anthropologist* 99, no. 2 (1997): 252, accessed November 2, 2011, <http://www.jstor.org/stable/682207>.

⁶ Ibid.

⁷ Steven N. Durlauf and Lawrence E. Blume, “Social Norms,” in *New Palgrave Dictionary of Economics, Second Edition*, (London: Macmillan, 2008), accessed October 31, 2011, <http://www.econ2.jhu.edu/People/Young/PalgraveSocialNormsJuly07JHU.pdf>

acculturation have been recognized as distinct processes underlying multicultural adaptations.⁸ Multiculturalism does not only refer to cultural diversity, but an environment in which cultures can thrive independently and also interact with each other in a respectful manner. Multiculturalism serves as "a slogan and model for political action... emphasizing that acknowledging the existence of ethnic diversity and ensuring the rights of individuals to retain their culture should go hand in hand with enjoying full access to, participation in, and adherence to constitutional principles and commonly shared values prevailing in the society."⁹

Multiculturalism is an official government policy for many western countries. It was initially adopted by Canada in 1971 and even today, the Canadian government website describes multiculturalism as the following:

As fact, 'multiculturalism' in Canada refers to the presence and persistence of diverse racial and ethnic minorities who define themselves as different and who wish to remain so. Ideologically, multiculturalism consists of a relatively coherent set of ideas and ideals pertaining to the celebration of Canada's cultural mosaic. Multiculturalism at the policy level is structured around the management of diversity through formal initiatives in the federal, provincial and municipal domains. Finally, multiculturalism is the process by which racial and ethnic minorities compete with central authorities for achievement of certain goals and aspirations.¹⁰

Since its inception, many countries, including most member-states of the European Union, have adopted multiculturalism as a policy. However in more recent times, many European countries have struggled in dealing with multicultural policies and

⁸ Henry Pratt, *Ethno-Religious Politics* (Cambridge, MA: Schenkman, 1974).

⁹ Christine Inglis, "Multiculturalism: New Policy Responses to Diversity," MOST Policy Papers 4 (Paris: UNESCO, 1996): 16, accessed November 7, 2011, <http://www.unesco.org/most/pp4.htm>.

¹⁰ Michael Dewing, "Canadian Multiculturalism," *Library of Parliament*, September 15, 2009. Accessed November 2, 2011, <http://www.parl.gc.ca/Content/LOP/ResearchPublications/prb0920-e.htm>.

immigration. Some states, including the Netherlands and Denmark, have altogether rejected multiculturalism as a policy.

Some anti-multiculturalists are opposed to the celebration of cultural differences, as “the emphasis on differences over commonalities accentuates or even creates differences and undermines shared knowledge and values.”¹¹ Instead, they may prefer *assimilation*, where the ethnic minorities assimilate into the more dominant group, or *cultural pluralism*, where the smaller ethnic groups maintain their cultural identities, but participate fully in the dominant society. Multiculturalism differs from assimilation and pluralism in that it does not necessarily involve a dominant culture. Assimilation is a two-way process, where norms and values are adopted through language and communication, but it usually involves the minority community taking on the customs of the dominant culture. Assimilation occurred in America throughout the 19th and early 20th century, when Europeans migrated to the United States to create a “melting pot”; assimilationists believe that “cultural differences are a reality in American society, and individuals are autonomous agents in the social field but are determined as members of particular groups within the greater American polity.”¹² More recently, since the 1960s, there has been a shift in attitude as the United States has moved away from assimilation to the belief that individuals should not abandon their distinct identities and attributes. Thus, scholars and political activists embraced multiculturalism and diversity. “Multiculturalism, in the context of the ‘American mosaic,’ celebrates the unique cultural heritage of racial and ethnic groups, some of whom seek to preserve their native languages and lifestyles. In a sense, individuals can be Americans and at the same time

¹¹ Eller, “Anti-Anti-Multiculturalism,” 250.

¹² Ibid.

claim other identities, including those based on racial and ethnic heritage, gender, and sexual preference.”¹³

Lastly, *social integration* is the “functional and effective link between a system's different agents or components.” It can not only be positive, in that internal solidarity stimulates cooperation, social control and possibly subordination to group norms, but negative in cases where internal solidarity leads to animosity towards the external (e.g. xenophobia).¹⁴

Now that we have defined some basic terms, I will attempt to provide a framework within which we can begin to understand the issue.

Problems

Firstly, there are certain conditions that can lead to western cultures not accepting aspects of non-western culture. When adherents of non-western culture attempt to integrate into western culture, proponents of the latter may seek to protect and preserve the existing cultural norms. If non-western culture harms or violates the tenets of western culture in any way, westerners may react with intolerance. Foreign norms can be unwelcome as they can harm the social fabric of a certain group; they can disrupt the social structures that have been established and for some westerners, may hinder progress. For example, a non-western belief may be interpreted as oppressive when viewed through a western lens. The promotion of such beliefs would directly violate the ideals of democracy and liberty.

¹³ Diana Owen, “American Identity, Citizenship, and Multiculturalism” (White Paper, Georgetown University, 2005).

¹⁴ Steven Dijkstra, Karin Geuijen and Arie de Ruijter, “Multiculturalism and Social Integration in Europe,” *International Political Science Review* 22, no. 1 (2001): 55-56, accessed November 2, 2011, <http://www.jstor.org/stable/1601285>.

I must take this opportunity to reiterate that this course of events can occur in non-western countries as well. Throughout the course of history, there have been a multitude of cases where the spread of western norms was shunned, resulting in government policies that similarly abrogated human rights. For example, in 1979, Ayatollah Ruhollah Khomeini rose to power after successfully leading the Iranian Revolution and overthrowing Mohammad Reza Pahlavi, the Shah of Iran. In establishing a strict Islamic government, Khomeini segregated the sexes, created an Islamic education curriculum at all levels, enforced a strict dress code, prohibited western movies and banned music. Khomeini rejected the notion of westernization and advocated Islamic revivalism as a state policy. In doing so, he denied the Iranian citizens the freedom to express themselves freely or practice religion as they deemed (or did not deem) fit. Similar cases exist throughout time, but for this paper, I will focus on the integration of non-western norms into western culture.

More specifically, nationalism can prove to be disruptive in achieving multiculturalism. Through a sense of common values (and imagined communities¹⁵), members of a nation share citizenship and thus, a “national culture.” Via communication, language and the media, a national culture is created that could be used as a political tool.¹⁶ “National consciousness in this sense consists of an overriding identification of the individual with a culture that is protected by the state.”¹⁷ Citizens who are members of the nation gain equal rights through membership; “anyone who wishes to have equal rights within a certain state must therefore also be equal to all others in that state: citizens

¹⁵ The concept of “imagined communities” (Benedict Anderson) will be discussed in detail later in the chapter (p. 23).

¹⁶ Dijkstra, Geuijen and de Ruijter, “Multiculturalism and Social Integration in Europe,” 57.

¹⁷ Deidre M. Curtin, *Postnational Democracy: The European Union in Search of a Political Philosophy* (Dordrecht: Kluwer, 1997), 14.

must have the same identity. The deal of equality is thus linked to possession of a cultural – and in this case national – identity.”¹⁸

In *Representative Government*, John Stuart Mill speaks about the problems that can occur in the shaping of a national identity, especially when concerning a state in which the citizens speak and read different languages. He first gives the following explanation of nationalism:

A portion of mankind may be said to constitute a Nationality if they are united among themselves by common sympathies which do not exist between them and any others — which make them co-operate with each other more willingly than with other people, desire to be under the same government, and desire that it should be government by themselves or a portion of themselves exclusively. This feeling of nationality may have been generated by various causes. Sometimes it is the effect of identity of race and descent. Community of language, and community of religion, greatly contribute to it. Geographical limits are one of its causes. But the strongest of all is identity of political antecedents; the possession of a national history, and consequent community of recollections; collective pride and humiliation, pleasure and regret, connected with the same incidents in the past.¹⁹

Problems arise, however, in that it is impossible to have a single national identity in a multicultural world.

Where the sentiment of nationality exists in any force, there is a *prima facie* case for uniting all the members of the nationality under the same government, and a government to themselves apart. This is merely saying that the question of government ought to be decided by the governed. One hardly knows what any division of the human race should be free to do if not to determine with which of the various collective bodies of human beings they choose to associate themselves. But, when a people are ripe for free institutions, there is a still more

¹⁸ Dijkstra, Geuijen and de Ruijter, “Multiculturalism and Social Integration in Europe,” 57.

¹⁹ John Stuart Mill, *Representative Government* (Kitchener, Ontario: Batoche Books, 2001), 181.

vital consideration. Free institutions are next to impossible in a country made up of different nationalities. Among a people without fellow-feeling, especially if they read and speak different languages, the united public opinion, necessary to the working of representative government, cannot exist. The influences which form opinions and decide political acts are different in the different sections of the country. An altogether different set of leaders have the confidence of one part of the country and of another. The same books, newspapers, pamphlets, speeches, do not reach them. One section does not know what opinions, or what instigations, are circulating in another. The same incidents, the same acts, the same system of government, affect them in different ways; and each fears more injury to itself from the other nationalities than from the common arbiter, the state. Their mutual antipathies are generally much stronger than jealousy of the government. That any one of them feels aggrieved by the policy of the common ruler is sufficient to determine another to support that policy. Even if all are aggrieved, none feel that they can rely on the others for fidelity in a joint resistance; the strength of none is sufficient to resist alone, and each may reasonably think that it consults its own advantage most by bidding for the favor of the government against the rest.²⁰

An overarching national identity creates separation, as not all citizens identify with it. “Nationalist ideologies tend to define their groups in either/or terms. They conceptualize the nation as strictly bounded between insiders and outsiders, and seek to define attributes of national identity or character that all members share... Claiming such an essence for the nation sometimes oppresses individuals within who do not conform to these national norms, and sometimes oppresses outsiders against whom national members set themselves in opposition.”²¹ Furthermore, nationalism aims to “‘purge’ the culture of its impure or foreign elements and thus render it whole again”... and attempts to “create forced unity out of diversity, coherence out of inconsistencies, and homogeneity out of

²⁰ Ibid., 182-183.

²¹ Iris Marion Young, *Inclusion for Democracy* (Oxford: Oxford University Press, 2000), 252.

narrative dissonance.”²² This divide can further impact those following “other” norms, as “the nation is conceived not merely in terms of horizontal ties to fellow-members, past and present, who share whatever features are taken to constitute the common identity, but in terms of vertical ties to established institutions, which are regarded as authoritative.”²³ It serves as an impediment to access to these institutions, which create policies that are in line with the national agenda.

For many non-westerners who migrate to the west, legal inequality and denial of their identity are consequences of national citizenship, thus making social integration increasingly difficult.²⁴ Identities of immigrants are shaped not only by their host countries, but also their home countries. As groups and boundaries are shaped through social and political processes, “ethnic identity is not an essence that people bear within themselves. It is a social construction within a certain historical context.”²⁵ Globalization has contributed to the formation of identities, as it allows the “free movement of cultural forms and images.”²⁶ Through this process, many people are able to “revert to what they see as their own ethnic identity; they invoke traditions and a history which they sometimes manipulate to promote individual and group interests. In other words, increasing globalization fosters favorable conditions for all sorts of particularization, localization and even fragmentation.”²⁷ These newly formed transnational identities are shaped by a variety of processes. However, these ethnically-based identities can clash with national identities, making multiculturalism difficult.

²² Seyla Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era* (Princeton: Princeton University Press, 2002), 8.

²³ David Miller, *On Nationality* (Oxford: Oxford University Press: 1995), 124.

²⁴ Dijkstra, Geuijen and de Ruijter, “Multiculturalism and Social Integration in Europe,” 75.

²⁵ *Ibid.*, 70.

²⁶ *Ibid.*, 58.

²⁷ *Ibid.*

While national identity binds citizens together, it is not always accommodating to cultural diversity.

Thus, such issues can cause serious problems for social integration, assimilation and multiculturalism. According to Huntington in *The Clash of Civilizations and the Remaking of a World Order*, the post-Cold War era is and will continue to be plagued with cultural conflict. While referring primarily to the West and East (“the peoples of Western Christianity, on the one hand, from Muslim and Orthodox peoples on the other”),²⁸ he explains that rather than ideological or economic conflict, the main source of contention in today’s world will be cultural. This clash of civilizations is due to the inherent differences between groups, such as philosophical assumptions, underlying values, social relations, customs and overall outlooks on life.²⁹ This cultural divide is difficult to reconcile and can greatly affect state policies and behavior, especially since the dominant group and interests “will hold power and shape the production and reproduction of society in such domains as education, government, institutions, and art.”³⁰

With regard to the West, multiculturalists worry about the Eurocentricity surrounding important cultural domains. They “express the problem as a ‘centering’ of intellectual and cultural attention on European or European-derived elements”³¹ while “the rest of us are pushed to the periphery, occupying the restricted category of ‘other.’”³²

As this divide creates a “we” versus “they” mentality, it can lead to various forms of

²⁸ Huntington, *The Clash of Civilizations*, 28.

²⁹ *Ibid.*, 28.

³⁰ Eller, “Anti-Anti-Multiculturalism,” 251.

³¹ *Ibid.*, 249

³² Bernice Johnson Reagan, “‘Battle Stancing’: To Do Cultural Work in America,” in *Voices from the Battlefield: Achieving Cultural Equity*, eds. Marta Morena Vega and Cheryl Greene (Trenton, NJ: Africa World Press, 1993), 71.

intolerance, exclusion, and xenophobia. While non-westerners are members of western society, their differing norms in the context of a national identity do not always allow full immersion unless they assimilate.

More specifically, this intolerance can lead to human rights violations. By not allowing the free practice of non-western cultural norms, a host country can consequently deny human rights. As the world becomes increasingly multicultural, there is a growth and spread of norms. By not allowing ethnic communities to live according to their own set of norms, there is a denial of freedom, be it of thought, personal expression or religion. Furthermore, “excluded groups develop negative self-images and ‘low self-esteem’ and are therefore less likely to succeed in education and occupations.”³³

When discussing human rights, we must discuss the issue of universality versus cultural relativism. In societies and communities with cultural sensitivities, it may seem difficult to apply a universal code to an entire population that has culture, religion and tradition embedded into its very foundation. The Universal Declaration of Human Rights, which was adopted by the United Nations General Assembly on December 10, 1948, sets forth a global standard for human rights. It states, “all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”³⁴ The Declaration established a foundation and global standard for all human beings, regardless of race, color, gender, religion, political or other opinion, national or social origin, language, or property throughout the world.

³³ Eller, “Anti-Anti-Multiculturalism,” 249

³⁴ Universal Declaration of Human Rights (1948), Article 1

Some critics of universality argue that human rights are drawn from traditional Western sources and that these are inadequate for dealing with multiculturalism. “The underlying reasons for their inadequacy are traced back to a deeply rooted belief in the presumed universality of Western moral notions. These assumptions manifest themselves in some of the international human rights documents. It is clear from even the most cursory study of other cultures that their value systems differ from those of the West in significant ways.”³⁵ This leaves a grey area where human rights questions pertaining to non-western norms are difficult to address.

With regard to specific cultures, it is essential for a state to maintain a balance where it is both sensitive to cultural differences and still respectful of the individual’s inherent rights to freedom of religion and expression. In thinking about the importance of cultural relativism, Weston notes, as “there are no overarching moral truths... local customs and traditions therefore fundamentally determine the existence and scope of rights in any given society.”³⁶ There is a cross-cultural challenge in respecting human rights. The cultural rights of a group must be protected and the state should also not be ethno-centric and/or generalize a community’s existence. To do so can degrade a culture’s identity.³⁷

Naturally, there are fundamental differences between western and non-western perspectives on human dignity. In the western approach, there is a much greater emphasis on individualism.

³⁵ Allison Dundes Renteln, “The Concept of Human Rights,” *Anthropos* 83, no. 4/6 (1988): 343, accessed November 2, 2011. <http://www.jstor.org/stable/40463371>.

³⁶ Burns H. Weston, “The Universality of Human Rights in a Multicultural World,” in *Human Rights in the World Community: Issues and Action*, 3rd ed., ed. Richard Pierre Claude and Burns H. Weston, (Philadelphia: University of Pennsylvania Press, 2006), 40.

³⁷ Stephen Hansen, “The Right to Take Part in Cultural Life,” in *Human Rights in the World Community: Issues and Action*, 3rd ed., ed. Richard Pierre Claude and Burns H. Weston, (Philadelphia: University of Pennsylvania Press, 2006), 227.

Rights held by individuals will of course tend to be more individualistic in their operation and effects than group rights or substantively similar non-rights protections because of the special claims justified by rights-based entitlements and the substantial discretionary control of the right-holder. When these rights are at the basic level of human rights, this individualism will be accented by the rarity of the social claims that will justifiably override rights.³⁸

While in western culture the individual is the focus of human rights, in non-western culture, community rights may take priority. This can include the diminution of individual rights for the greater good of the community.

In sum, one must find a middle ground between being culturally sensitive and understanding the basic concepts of morality and human rights. As there are expected differences in perceptions of cultural values and norms, cross-cultural legitimacy is a fundamental aspect of progress and change. It must be attained “so that peoples of diverse cultural traditions can agree in the meaning, scope, and methods of implementing these rights.”³⁹

In today’s world, it is increasingly intolerable to take away people’s rights; doing so catches global attention as there are now international humanitarian standards for tolerance and the respect for human rights. “Treaties on human rights and other issues have great consequences for the possibility of bringing national states into line or intervening in each other’s affairs. There is a growing sense that states should be unable to do everything to their citizens that they would like to, and that the international community has a responsibility to address human rights issues, even when states call

³⁸ Jack Donnelly, “Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights,” *The American Political Science Review* 76, no. 2 (1982): 311, accessed November 2, 2011, <http://www.jstor.org/stable/1961111>.

³⁹ Abdullahi Ahmed An-Na’im, “Toward a Cross-Cultural Approach to Defining International Standards of Human Rights,” in *Human Rights in Cross-Cultural Perspectives: a Quest for Consensus*, ed. Abdullahi Ahmed An-Na’im (Philadelphia: University of Pennsylvania Press, 1992), 21.

them ‘internal affairs.’”⁴⁰ States that violate human rights are heavily scrutinized by international organizations (e.g., the United Nations), transnational nongovernmental organizations, and the international community. Additionally, the abrogation of rights divides societies, rather than bringing them together. In the process of attempting to assimilate a smaller culture with a larger one, a greater cultural divide is created and new problems surface.

International Relations Theory

Certain international relations frameworks are crucial for highlighting these issues. Liberal theorists, for one, are greatly concerned with the spread of democracy and the protection of human rights. As mentioned earlier, democratic ideals are a strong component of western culture. Democracy is a highly valued commodity; when threatened, it is both reaffirmed and enforced by western advocates. It is often listed as a reason for many of the West’s policies and attitudes.

Furthermore, the defense of human rights is also integral to liberal theory. As we discussed earlier in the chapter, when certain western norms are violated, there can be a subsequent abrogation of human rights. Liberalism highlights the importance of protecting fundamental human rights, as it is conducive to creating a democratic society.

With regard to nationalism, Benedict Anderson discusses the way in which a nation is socially constructed. Taking from Marxism, in *Imagined Communities: Reflections on the Origins and Spread of Nationalism*, he explains that a nation is “an

⁴⁰ Dijkstra, Geuijen and de Ruijter, “Multiculturalism and Social Integration in Europe,” 66.

imagined political community - and imagined as both inherently limited and sovereign.”⁴¹ It is imagined because even though the members will never know each other, “in the minds of each lives the image of their communion.”⁴² A nation is limited by its boundaries, and sovereign because it is free to rule itself without a dynastic monarchy claiming authority. Lastly, it is a community because “regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship. Ultimately it is this fraternity that makes it possible, over the past two centuries, for so many millions of people, not so much to kill, as willingly to die for such limited imaginings.”⁴³ While members of a nation may not ever meet each other, they imagine they are bonded by shared interests, attitudes and opinions as they identify with the same nation. Stemming from a common nationality, the imagined community helps shape political and cultural institutions. With regard to achieving multiculturalism, the imagined communities that exist in countries can be problematic. In western nations, nationalism can promote a monocultural approach or beliefs; doing so can stifle and hinder the growth of non-western norms.

Constructivism is another useful international relations framework, as it helps us to understand the role of identity – the way it is created and how it ultimately impacts the actor’s behavior, be it of a state, group or individual. Constructivism places a great deal of emphasis on values, culture and identities, as they ultimately shape international politics. These identities are created by non-material structures that are normative and

⁴¹ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (New York: Verso, 1983), 6.

⁴² *Ibid.*, 6

⁴³ *Ibid.*, 7

ideational, and are driven by mechanisms such as imagination and communication.⁴⁴ These structures, consisting of institutionalized norms and ideas, lay the foundation for interests, and “it is through reciprocal interaction that we create and instantiate the relatively enduring social structures in terms of which we define our identities and interest”.⁴⁵ It is safe to say that western and non-western culture are driven by their respective identities, comprised of their various norms and values.

Furthermore, identities are the basis of interests,⁴⁶ be it those of the individual or the state, and therefore ultimately affect the actor’s behavior. Even within a state or society, clashing western and non-western identities can create internal strife and tension. As each community struggles to maintain its identity, peaceful coexistence within existing boundaries becomes increasingly difficult. Identities thus bond together to create an interest in ethnic solidarity and the preservation of cultural norms. Whether the identities manifest into the individual’s self-interest or the state’s, the resulting behavior ultimately shapes large-scale policies and outcomes. Furthermore, “both local identity and culture are crucial influences on the interpretation and creation of rules by agents. The analysis of norms and rules in world politics reveals that they reflect national, ethnic, religious, and other identities, brought to bear on social processes by particular cultures.”⁴⁷ Both European and international politics are heavily influenced by these cultural identities. We can apply constructivism by following the progress from norms/ideas/identities to interests and subsequently, behavior.

⁴⁴ Scott Burchill, et al., *Theories of International Relations*. (New York: Palgrave, 2009), 221-222.

⁴⁵ Alexander Wendt, “Anarchy is What States Make of It: The Social Construction of Power Politics,” *International Organization* 46, no. 2 (1992): 406, accessed April 15, 2011, <http://www.jstor.org/stable/270685>.

⁴⁶ *Ibid.*, 398

⁴⁷ Vendulka Kubalkova, “Reconstructing the Discipline: Scholars as Agents,” in *International Relations in a Constructed World*, ed. Vendulka Kubalkova, Nicholas Onuf and Paul Kowert, (Armonk, NY: M.E. Sharpe, 1998), 197.

Global Policies

With regard to the policy literature, international organizations have generally taken a backseat when it comes to multiculturalism and the integration of non-western norms into western culture. The European Union and subsequently, Europe, have been openly condemned by critics for their failure to promote multiculturalism and tolerance. On its website, the European Commission (the executive body of the European Union) states that it has funded research programs in order to study intercultural dialogue. One such program, entitled EMILIE, is an interdisciplinary project that serves as “a response to the current ‘crisis of multiculturalism’ and the lack of a common EU intellectual framework to discuss the relevant challenges.” It conducted a study of migration in nine European countries – Belgium, Denmark, France, Germany, Greece, Latvia, Poland, Spain and UK – in order to understand the relevant issues, challenges and conflicts. In doing so, EMILIE aims to “identify the European dimensions of integrating diversity (value discourses, points of tension, best practices) and elaborates an empirically grounded European theoretical model of multiculturalism appropriate to the European experience and the current crisis as a basis for a rational resolution of the current panic about multiculturalism.”⁴⁸

As the United Nations is focused on international peace, development and human rights, multiculturalism is part of its agenda as well. A press release from a September 2005 General Assembly meeting stresses the importance of multiculturalism, noting, “acceptance of and commitment to multiculturalism was at the heart of the global fight

⁴⁸ EMILIE, “About Us,” accessed October 20, 2011, <http://emilie.eliamep.gr/about/>.

against discrimination and xenophobia.”⁴⁹ The committee stressed the need for the international community to promote multiculturalism in order to fight increasing racism and racial discrimination in our pluralistic world, specifically with regard to the Muslim community. The year prior, a UN-Habitat report examined the economic and social imbalances caused by the discrimination of migrants. Multiculturalism is “an urban phenomenon that should be celebrated, not feared... [It] enhances the fabric of societies... brings color and vibrancy to every city it touches... [and] has the potential to broaden the cultural and ethnic dimensions of cities.”⁵⁰ The United Nations Educational, Scientific and Cultural Organization (UNESCO) has a program that focuses specifically on international migration. The aim of the program is to “promote the respect for the human rights of migrants, and to contribute to peaceful integration of migrants in society.”⁵¹ Furthermore, in July 2003, The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families⁵² entered into force. While it has yet to be signed and ratified by all member states, the convention addresses various human rights for migrants such as the right to basic freedom, privacy, information, equality, due process and so on.

⁴⁹ United Nations, General Assembly GA/SHC/3835, July 11 2001, accessed December 8, 2011, <http://www.un.org/News/Press/docs/2005/gashc3835.doc.htm>.

⁵⁰ UN-HABITAT, “UN-HABITAT Report Celebrates Multicultural Cities,” September 14, 2004, accessed December 8, 2011, <http://www.unhabitat.org/content.asp?cid=2478&catid=5&typeid=6&subMenuId=0>.

⁵¹ United Nations Educational, Scientific and Cultural Organization, “Social and Human Sciences: International Migration International Migration and Multicultural Policies,” accessed October 20, 2011, <http://www.unesco.org/new/en/social-and-human-sciences/themes/social-transformations/international-migration/>.

⁵² United Nations Educational, Scientific and Cultural Organization, Social and Human Sciences: International Migration Convention, accessed October 20, 2011, <http://www.unesco.org/new/en/social-and-human-sciences/themes/social-transformations/international-migration/international-migration-convention/>.

While these two major international organizations, the European Union and United Nations, address issues related to integration, their scope and reach appear to be limited. As mentioned, the United Nations does set forth global standards for human rights, via various instruments such as the Universal Declaration of Human Rights. While this is vital for the establishment, maintenance, and enforcement of human rights norms, there is certainly a lack of attention given to assimilation and multiculturalism. The United Nations and European Union certainly facilitate important dialogue and awareness; however, there is minimal literature and even less guidance regarding how states should welcome multiculturalism.

Since we have now discussed the integration of non-western norms into western culture, we have laid the foundation for the issue at hand. In order to continue my analysis, I will examine the headscarf controversy, as it is central to Islamic culture and illustrates the way in which the “other” culture is (or is not) tolerated in the West. In the following two chapters, I will discuss the headscarf at length, and then use the case studies of France and Turkey to test my hypothesis.

Chapter III: The Significance of the Headscarf

As mentioned earlier, I have chosen the headscarf to represent both non-western culture as well as a human rights issue. In today's world, Islam and its culture are widely scrutinized given the current political climate.

Background

On September 11th 2001, Muslim terrorist group Al-Qaeda launched a brutal attack on United States soil that would not only impact the lives of American citizens, but the international community at large. That morning, 19 Al-Qaeda terrorists hijacked four commercial airplanes and targeted United States buildings, successfully hitting the World Trade Center and the Pentagon. In less than a two-hour span, 3,000 civilians had perished. The world was shocked by the series of vicious attacks and immediately set out a counterterrorism agenda to try and ensure that nothing of this magnitude would ever happen again.

The Bush administration immediately responded to the attacks, which were classified as a crime against humanity¹ in that they blatantly violated international human rights and humanitarian law. The "War on Terror" would impact not only American rhetoric, but foreign and domestic laws, policies and even societal norms. Furthermore, the catastrophic and tragic events of 9/11 created not only a curious fascination, but also a lingering fear of this previously little-known non-western religion with its mystifying cultural practices.

¹ Rome Statute of the International Criminal Court (2002), Article 7.

In the wake of September 11th, the global community has been increasingly confronted with Islamic culture and has struggled to understand it. While, like any culture, Islam contains its own values, norms and practices, Muslim dress is a more visible form of culture that is prevalent in western society. The events of 9/11 certainly brought the headscarf debate to the forefront. Although Islamic garb varies greatly in how much and in what way it covers an individual, I have chosen the headscarf as it is Islamic wear in its mildest and most widely used form.

The veil is worn frequently throughout the western (and of course, non-western) world by girls and women of all ages. While historians have traced its origins back to pre-Islamic Persia (as a symbol of class distinction), the headscarf has evolved through time and has maintained a subjective meaning for both wearer and observer. The *hijab* is said to have originated in the Ancient Near East, where elite Assyrian and Babylonian women wore the headscarf. It was the right of free women to don it and slaves who did so could be punished.² Today, the way Muslim women wear the headscarf varies greatly according to different cultures and individuals, but for the purposes of this paper, I will refer mainly to the *hijab*, which covers the hair (and neck, for the most part), as it the most commonly worn head covering. The importance of *hijab* is that while one may view it as a simple piece of cloth, it is heavily loaded with meaning – socially, culturally and politically.

² Wiebke Walther, *Women in Islam: from Medieval to Modern Times* (Princeton, NJ: Markus Weiner Publishers, 2006), 70.

Religious Meanings

From an Islamic perspective, the veil is viewed as a symbol of honor and purity. As the body represents sexuality and femininity, the *hijab* portrays modesty, as well as Islamic morality and values, such as piety and honor. Different Islamic scholars have varying interpretations on whether the *hijab* is obligatory. One verse that suggests the wearing of a headscarf says: “*O prophet, say to thy wives, and the daughters, and the womenfolk of the believers, that they let down some (part) of their mantles over them; that is more suitable for their being recognized and not insulted.*”³ Another Quranic verse that most directly speaks to veiling reads:

*... and tell the believing women to lower their gaze and to be mindful of their chastity, and not to display their charms [in public] beyond what may be apparent thereof; hence, let them draw their head-coverings over their bosoms and not show or display their charms except to their husbands or their fathers or the fathers of their husbands, or their sons or the sons of their husbands, or their brothers, or the sons of their sisters, or their womenfolk, or those in their possession...*⁴

While some scholars believe that covering the head is not mandatory, others feel everything, including the hands and face, should be concealed. Despite the wavering scholarly opinions on the topic, it is safe to say that throughout the Muslim world, the *hijab* is not a mere piece of cloth; its significance is much deeper than that, as it is universally representative of modesty, piety and respect.

³ *Qur'an*, 33:59 (Surah al-Ahzab).

⁴ *Qur'an*, 24:31 (Surah al-Nisa).

Alternate Meanings

The *hijab* is an integral part of a Muslim woman's identity, self-expression and personal empowerment. In the 20th century, unveiling (and in some cases, veiling) has served as a political statement. Elite Egyptian women abandoned the headscarf in direct challenge to their class-based marginalization in society in the 1920s. Muslim Palestinian women also unveiled in rebellion to Hamas' nationalization of the *hijab* in order to enforce patriotism and respect during the *intifada* (1990s).

In other cases, women have donned the veil for political reasons. During the Algerian War (1954-1962), women wore the headscarf as a resistance to French colonialism and a symbol of national liberation. In 1970s post-revolutionary Iran, women wore the *hijab* in defiance of the modernizing Shah's regime and western cultural imperialism. Furthermore, the Islamic revivalism that began in the Middle East in the 1970s (and continues today) created a transnational, universal Islamic identity. As Muslims around the world embraced Islamic culture (in opposition to Westernization), they created a global collective of shared values, culture and lifestyle. They began to turn to Islam "as a source of identity, meaning, stability, legitimacy, development, power, and hope, hope epitomized in the slogan 'Islam is the solution.'"⁵ Furthermore, the movement serves as an "expression of modernity... the emphasis upon Islamic values is not intended as a return to some past era but represents an effort to cope with contemporary problems by renewed commitment to the basic principles, though not the historical details, of Islam."⁶ Veiling is a strong component of the contemporary Islamic

⁵ Huntington, *The Clash of Civilizations*, 109.

⁶ Ira M. Lapidus, "Islamic Revival and Modernity: The Contemporary Movements and the Historical Paradigms," *Journal of the Economic and Social History of the Orient* 40, no. 4 (1997): 444, accessed November 6, 2011, <http://www.jstor.org/stable/3632403>.

revival, as women veil not only to display their Islamic identity, but also to foster solidarity and create a transnational community in the face of today's intolerance and oppression. In such cases, veiling may serve as "a collective means of asserting cultural authenticity in the face of a dominant cultural model seeking to extinguish Islamically inspired social mores."⁷ In challenge to cultural assimilation, veiling for political reasons can emphasize a unique cultural identity.

Since 9/11, even more new political meanings have emerged as Muslim women are observed with greater scrutiny in the United States; some women donning the hijab have been attacked, as they are "marked by their dress as representative of the Enemy and inferior Muslim Other."⁸ For them, "simply taking on a negatively charged garment in [American] society is an act of courageous defiance in the face of prejudice."⁹ As a response to the attacks, non-Muslim activists across the United States declared "headscarf days" and wore the *hijab* to show their solidarity with women who were at risk because of their clothing. For some women in the post-9/11 years, wearing the headscarf became an act of commitment and defiance. It evolved to become a symbol of solidarity for women throughout the country.

On a social level, feminists view veiling as granting women autonomy and equality articulated in terms totally different from the language of the West.¹⁰ Wearing a *hijab* enables many women, who may otherwise feel uncomfortable and restricted, "to assert their presence in male space by setting unavoidable contacts with non-kin males

⁷ Camillia Fawzi El-Solh and Judy Mabro, *Muslim Women's Choices: Religious Belief and Social Reality* (Providence: Berg Publishers Ltd, 1995), 11.

⁸ Leila Ahmed, "The Veil Debate – Again," in *On Shifting Ground: Muslim Women in the Global Era*, edited by Nouria-Simone, Fereshteh (New York: The Feminist Press at the City University of New York, 2005), 166.

⁹ Ibid.

¹⁰ Leila Ahmed, *Women and Gender in Islam*, (New Haven & London: Yale University Press, 1992), 226.

within a desexualized context.”¹¹ For women who identify with the Islamic norm of the headscarf, the veil serves as a mechanism for female empowerment as it enhances mobility and freedom within the public space; it can also act as protection from unwanted attention. Furthermore, Muslim women may find it difficult to adopt a western model of feminism as they do not necessarily recognize family ties and kinship as a hindrance to women’s liberation; they also may resent the West’s identification of “the problem” of Muslim women as a religious problem.¹² Judging the status and roles of Muslim women in western cultural terms can lead to negative or biased interpretations of an Islamic lifestyle.

It is safe to say that for some women donning the *hijab* is a religious choice, but for many others it is cultural one devoid of religious significance, whether grounded in community, politics, identity, ethnicity, or tradition. For some women, it is both.

Western Perceptions

It is also important to note the general western perception of the *hijab* that lays the foundation, both historically and currently, for the West’s beliefs, actions, and policies. For many, the headscarf is an archaic and backwards practice that is frequently forced upon a woman. The veil acts as a “ potent symbol of gender, political, and social inequality.”¹³ It is seen as segregating the sexes with social margins, as it symbolizes a woman’s confinement to her private sphere and the limitation of her movement in the public space. As a result, it is often deemed an oppressive practice that keeps women in a

¹¹ El-Solh & Mabro, *Muslim Women’s Choices*, 11.

¹² *Ibid.*, 17.

¹³ Sharon Todd, "Veiling the "Other," Unveiling Our "Selves": Reading Media Images of the Hijab Psychoanalytically to Move beyond Tolerance," *Canadian Journal of Education* 23.4 (1998): 444-445, accessed November 5, 2011, <http://www.jstor.org/stable/1585757>.

perpetual state of subordination. Sociologist Juliette Mincez, for example, describes the veil as an “everyday form of oppression”, stating:

the veil is today a political symbol, whose meaning goes much farther, since it affects women alone and reduces them once again to sexual objects -- inferior, unclean and dangerous. For whether one likes it or not, the veil is the hallmark of the image men have of women (it is very often men who put pressure on women to wear the veil again, on the pretext of religious observance) and, consequently, of what they have internalized with regard to it.¹⁴

Like many in the West, Mincez feels there are deeply-embedded ideas of subjugation, oppression and patriarchy associated with the *hijab*.

A great deal of this perspective is based on deeply-rooted colonial perceptions by western imperialists of Muslim women wearing the headscarf in Islamic countries. “The prejudices [that are] generally associated with earlier western travellers to the Muslim world – who imagined native women as either ignorant heathens, or exotic beings whose allures were tantalizingly hidden by layers of clothing – largely continue to color contemporary western perceptions of Muslim women.”¹⁵ These colonial attitudes towards Islamic culture were marked with notions of civilized/uncivilized, colonizer/colonized, and European/non-European.¹⁶ This charged perception of veiling has been upheld throughout the years.

It is also important to note that men’s religious attire does not evoke a similar western response, which “suggests that women’s adoption of religious clothing is taken

¹⁴ Juliette Mincez, *Veiled: Women in Islam* (Watertown, MA: Blue Crane Books, 1994), 59.

¹⁵ El-Solh & Mabro, *Muslim Women’s Choices*, 4.

¹⁶ Ahmed, “The Veil Debate – Again,” 154.

to be a sign of social coercion in a way that men's wearing of religiously symbolic clothing is not."¹⁷

In sum, Leila Ahmed says it best:

Human dress is all about symbolism and about signaling different and sometimes contradictory (whether deliberately or otherwise) meanings. The veil is only different - and also therefore infinitely more charged than most clothing - in its potential meanings, meanings which of course may be quite different for wearer and observer. Because of the historical meanings with which it has been imbued since the rise of European imperialism, it has the power, perhaps uniquely as a garment, to provoke, disturb unsettle. For over a hundred years now it has served as perhaps the quintessential symbol and flag of civilization clash, of clashing values, and of struggles between the powers of empire and those resisting imperial powers, and an emblem too of clashing classes and of the struggle between the haves and have-nots within a society.¹⁸

The varying interpretations of the veil have played a major role in the current debate surrounding the *hijab*. A religious garment has become a controversial component of domestic policy in several countries. Islamic countries such as Saudi Arabia and Iran have enforced the headscarf for all women, while France, Germany and the Netherlands have banned the *hijab* in certain public spaces. In Turkey, the veil has been a source of contention for the past 30 years. As mentioned earlier, in the wake of 9/11, the issue has become even more prominent, amidst a growing focus on Islam and its adherents.

¹⁷ Saba Mahmood, *Politics of piety the Islamic revival and the feminist subject*, (Princeton, NJ: Princeton University Press, 2005), 75.

¹⁸ Ahmed, "The Veil Debate - Again," 164-165.

Veiling

In Muslim countries where *hijab* is enforced, Islamic law, *Sharia*, is an integral part of the ruling and legal systems. Failure to comply is a punishable act, with consequences ranging from fines to lashes to imprisonment. In Iran, veiling is compulsory -- even for foreign visitors. With the establishment of the Islamic Republic of Iran in 1979 came a new set of rules for women and their respective ethical behavior in the public sphere. Not only were they be obligated to wear a veil, but a particular style of *hijab* began to be promoted as well, via influential propaganda that would be displayed throughout the country. The law was created as “part of the political reconstruction of the Islamic social order into an Islamic central society.”¹⁹

Certain themes have been pervasive through Iranian popular culture regarding the wearing of the veil – those of honor, shame and dignity. The chastity of a woman reflected on her husband. Western clothing and culture were advertised as corrupt and immoral. The religious aspect of the *hijab* aside, the veil has become a symbol for something even more meaningful in Iran. By being covered in a certain form of *hijab*, the women became a “walking symbol of their pride, piety, [and] national identity to be seen as full supporters of their ruling government, the Islamic Republic that ‘freed’ them from domination of tyranny of the previous monarchic regime and by its extension, the ‘infidel colonial’ Western culture.”²⁰ In Iran’s case, the enforcement of *hijab* is not only a matter of religious appropriateness and morality, but nationalism as well.

¹⁹ Faegheh Shirazi. “Islamic Religion and Women’s Dress Code: The Islamic Republic of Iran,” in *Undressing Religion: Commitment and Conversion from a Cross-cultural Perspective*, ed. Linda B. Arthur (Oxford: Berg, 2000), 119.

²⁰ *Ibid.*, 126-9.

Saudi Arabia, whose legal system is based on strict Islamic law, rigorously enforces *hijab* on all citizens. This includes Muslims, as well as expatriate non-Muslims. Not only is a headscarf required, but an abaya (a long, black cloak) is incorporated into the law and a veil covering the face (with a slit for the eyes) is recommended as well. All clothing must be loose, opaque, and dark in color and should not resemble Western apparel. Violation of the law is punishable in the most extreme form, by death. In 2004, women who appeared unveiled at a conference were warned of “grave consequences” by the country’s highest religious authority.²¹ In Saudi Arabia, the law requiring women to wear *hijab* is very deeply rooted in religion, as well as tradition and custom.

Unveiling

In the following two chapters, I will use the case studies of France and Turkey to illustrate the struggle in integrating non-western culture into western culture. Other European countries are also currently faced with this problem, such as the Netherlands (as discussed in the opening chapter) as well as Germany. In both countries, authorities have perceived the headscarf as a challenge to secularism. As I have mentioned, I have chosen to study France and Turkey as they are unique but significant cases in the headscarf debate. Both are secular countries that promote separation of church and state. France, while advocating its policy of *laïcité*, has spearheaded the headscarf ban in Europe. Turkey, a mostly Muslim country, has been struggling with the issue for years as it strives to be accepted by the European Union.

²¹ “Unveiled Women Anger Saudi Cleric,” *BBC News*, January 21, 2004, accessed November 7, 2011, http://news.bbc.co.uk/2/hi/middle_east/3415757.stm.

Historically, Turkey is not the only Muslim country to ban female Islamic dress. Since 1981, Tunisia has banned women from wearing the headscarf in schools and government buildings. The secular government viewed the *hijab* as “sectarian dress” and subsequently prohibited it. More recently, policemen have stopped women in the streets to ask them to remove their veils and sign a pledge to discontinue its use. It is perceived as being “worn by people who use religion to hide political aims.”²²

Before going into further detail on my case studies, I will briefly discuss how banning the headscarf is a human rights issue.

Human Rights

Over the years and throughout the various debates surrounding it, one thing is for sure: the *hijab* has become an international symbol of female Muslim identity. It has come to symbolize everything from Islamic fundamentalism, freedom of religious expression and women’s subordination to women’s empowerment and equality.²³ To elaborate further,

... the *hijab* is pregnant with meanings acquired during the most recent history of contemporary Islamic societies. A specific style of *hijab* that a woman may adopt can be interpreted in numerous ways. It might serve as an indication of her degree of religiosity or affiliation with or protest against a political party; a cue of her progressiveness; a silent communicator of her strong belief in the feminist movement; a symbol of her struggle against colonial regime; or it might indicate nothing more than her adherence to traditional cultural values.²⁴

²²Heba Saleh, “Tunisia moves against headscarves,” *BBC News*, October 15, 2011, accessed December 10, 2011, <http://news.bbc.co.uk/2/hi/africa/6053380.stm>.

²³Todd, “Veiling the ‘Other,’” 442.

²⁴Shirazi, “Islamic Religion and Women’s Dress Code”, 115.

Irrespective of the exact meaning to a Muslim woman, banning the headscarf may be a violation of human rights in that not only is a woman denied her right to religion and personal expression, but her sense of autonomy and identity is compromised as well.

Based on the articles set forth by the Universal Declaration on Human Rights, both equality between men and women and freedom of religion are universally-agreed norms. The Declaration states, “all are equal before the law and are entitled without any discrimination to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”²⁵ Regarding freedom of religion, the Declaration states:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

According to a publication by the United Nations Division for the Advancement of Women, religious freedom as a human right means not only being able to choose one’s religion and how to practice one’s beliefs, but “it implies freedom from coercion either by the State or other religious groups.”²⁶ Furthermore, these values were “framed by people from diverse cultures, religions and nationalities and therefore were intended to take into account such factors as religion and cultural traditions of countries. For that reason... [there] is no provision whatsoever for differential interpretation based on

²⁵ Universal Declaration of Human Rights (1948), Article 7.

²⁶ United Nations Division for the Advancement of Women, “International Standards of Equality and Religious Freedom: Implications for the Status of Women,” in *Identity Politics and Women: Cultural Reassertions and Feminisms in International Perspective*, ed. Valentine M. Moghadam (Boulder, CO: Westview Press, 1994), 428.

‘culture or tradition.’”²⁷ Freedom of religion is a fundamental human right granted to all individuals.

For women who veil for religious reasons, the headscarf ban is said to violate their freedom of religious expression. It is understood that religious freedom is not an absolute right; the state does have the ability to impose reasonable restrictions on such rights for the purpose of regulating a legitimate state interest. In the case of the *hijab*, however, observers note that there is no justifiable basis or motive to place such limitations.

Headscarves do not pose a threat to public safety, health, order, or morals, and they do not impinge on the rights of others. They are not inherently dangerous or disruptive of order, and do not undermine the educational function. There may be specific circumstances in which state interests justify regulation of religious dress, as when such dress would directly jeopardize individual or public health or safety.

Such concerns, however, cannot justify a blanket prohibition.²⁸

Religious freedom, including the freedom to manifest one’s religious beliefs through clothing and symbols, is not an absolute right. The state may impose reasonable restrictions to regulate a legitimate state interest.²⁹ However, there is no evidence that headscarves harm anyone; they are not disruptive or threatening and do not impose on others. It is a personal choice. Any perceived threat would have to be based on the context in which the garment is worn.

For example in some cases, women have fought back against veiling by removing the headscarf *by choice*. With the *intifada* in Gaza, where Hamas had created a “return to

²⁷ Ibid., 426-427.

²⁸ Haleh Chahrokh, *Discrimination in the Name of Neutrality: Headscarf Bans for Teachers and Civil Servants in Germany* (New York, NY: Human Rights Watch, 2009): 63, accessed November 5, 2011, <http://www.hrw.org/reports/2009/02/26/discrimination-name-neutrality-0>.

²⁹ Ibid.

moral social code” by nationalizing the *hijab* to show patriotism, respect and religious pride, women used the religious garment as a symbol of rebellion. They refused to conform to the social pressure to wear the veil, despite the sometimes violent consequences of doing so.

Social acquiescence, political inaction, family pressure and a concurrent ideological transformation created a situation in which only a few committed women in Gaza, one year into the intifada, continued not to wear a headscarf. These women were affiliated with the three leftist factions and, although acting individually, were all asserting, within the context of the intifada, the fundamental linkage between gender liberation and the possibility of a progressive and democratic future. Their struggle, then, was not against the *hijab* itself but about what the intifada would lead to... they struggled on a daily basis to maintain their right to choose and their right to a better future...³⁰

The importance of this rebellion is that the women began to fight for their own inherent right – the right to *choose*. While it was part of a greater political movement, it was key in emphasizing their own liberties. Although this may have been perceived as threatening by the authorities, a case can also be made that ultimately, it is the human right of the people to revolt and change their institutions at will.³¹ Only if this rebellion was disruptive to state order and stability would there be a question about this right.

To reiterate, for women who wear the headscarf for cultural reasons, the ban limits their choice, personal expression, and civil liberties. Freedom of conscience is an inalienable human right and is written into western constitutions. As I have noted, many Muslim women living in the West (and East) use the veil as a means of empowerment.

³⁰ Rema Hammami, "Women, the Hijab and the Intifada," *Middle East Report* 164/165 (1990): 24, accessed November 7, 2011, <http://www.jstor.org/stable/3012687>.

³¹ Stephen Paust, "The Human Right to Revolution," in *Human Rights in the World Community: Issues and Action*, 3rd ed., ed. Richard Pierre Claude and Burns H. Weston (Philadelphia: University of Pennsylvania Press, 2006), 450.

To deny a woman the right to decide for herself is unjustifiable, be it in a situation where it is forced upon a woman or removed.

Furthermore, it cannot be assumed that a woman who veils herself is forced to do so. While this may be true in certain cases, many women choose the attire voluntarily. Additionally, according to Haleh Chahrokh who studied the ban in Germany for *Human Rights Watch*, “in the light of the state's paramount obligations to protect human rights, coercion by the state in banning headscarves is arguably even more serious than coercion by private parties in requiring the headscarf. Legitimate efforts to eliminate coercion of those who do not wish to wear the headscarf do not justify the state in coercing others not to do so.”³² Instead, forced removal of the *hijab* could aggravate a woman’s situation regarding familial pressure and cause further problems.

For those who want to wear it for whatever reason, banning the headscarf inhibits Muslim women from fully participating in society. Some women are unwilling to take off their *hijab*, which can take them out of the public sphere and confine them. Women who do comply have to relinquish some of their sense of privacy and comfort. Both sides inhibit public participation, especially in places such as schools and offices, as not being able to practice faith freely can surely be debilitating. Moreover, the headscarf ban in schools limits a woman’s access to education. While it is said to promote communication between teachers and pupils, some girls may feel restricted at the thought of removing their head-covering. The subsequent “denial of equal opportunity” that results from the ban can have “a long-term effect on future possibilities of economic and political participation. [In terms of] secondary education, [it] is where intellectual values are

³² Chahrokh, *Discrimination in the Name of Neutrality*, 59.

instilled as well as skills that permit persons to compete in the labor force.”³³ In enforcing the headscarf ban, women’s rights are taken away under the guise of modernism, neutrality and advancement.

Now that I have provided some background on the significance and implementation of the headscarf, I will begin with my first case study: France.

³³ United Nations Division for the Advancement of Women, “International Standards of Equality and Religious Freedom,” 435.

Chapter IV: The Headscarf Ban in France

As mentioned earlier, in order to support my hypothesis, I will use the case studies of France and Turkey. In doing so, I will seek to demonstrate that even when a non-western practice (in this case, the headscarf) is seen as threatening by proponents of western culture (in this case, French/Turkish policy makers), the denial of civil liberties need not occur. The act of donning the *hijab* is not harmful in itself to anyone, including the wearer. Why, therefore, would it lead to the denial of rights? I will first give the example of France and will discuss Turkey in the following chapter.

Today, Muslims comprise the majority of the immigrant population in Western Europe, especially in Belgium, France, Germany, the Netherlands and most of all, the United Kingdom. Estimated figures range from 15 to 20 million, comprising approximately four to five percent of the total population.¹ France has the largest proportion of Muslims (seven to ten percent), followed by the Netherlands, Germany, Denmark, Sweden, the United Kingdom and Italy.² Host countries continue to try to resolve the tension between assimilation and multiculturalism, because immigrants, in varying degree, want to retain aspects of their culture.

France is arguably the main proponent in the West of a headscarf ban. While citing secularism as its reason, the French government has prohibited the use of the veil in public schools. I will first discuss the nature of French society and then discuss the reasons used to ban the scarf.

¹ Robert S. Leikin, "Europe's Angry Muslims," *Foreign Affairs* 84, no. 4 (2005): 122, accessed on November 17, 2011, <http://www.jstor.org/stable/20034425>.

² *Ibid.*

Background: The Nature of French Society

Both historically and currently, France is well-known for its policy of assimilation. Dating back to colonial times, French politics have involved establishing a national dominant identity for all those governed by France. By adopting French culture and customs, people living in the colonies could embrace this identity.

The influential and well-educated men [of the colonial era in the mid-eighteenth century] believed firmly that that theirs was a modern, industrial society, a democratic society, and a superior society in which the ‘higher races’ were presumed to have the clear and righteous ‘duty to bring science and industry to the inferior races and raise them to a higher level of culture’... By the 1850s, France’s infamous policy of assimilation – its ‘civilizing mission’ – in its occupied territories was well established, assisted by imposed education institutions that endure to this day in parts of North and West Africa and the Antilles.³

This agenda was not only evident in colonial policy, but in the national policy as well, where the school, “as an instrument of the state, would assimilate the masses into French citizens, as the interests of national unity dictated.”⁴ Thus, with the establishment of a “common culture”, France aimed to promote social cohesion and national unity. Previously this policy extended to the colonies, however it currently focuses on ethnic minorities living within the country’s borders.

The headscarf ban in France is directly related to the status of multiculturalism, as well as immigration. With regard to multiculturalism, France does not have a formal state policy. The French Constitution (1958) states that “France shall be an indivisible,

³ Tricia Danielle Keaton, *Muslim Girls and the Other France: Race, Identity Politics & Social Exclusion* (Bloomington, Indiana: Indiana University Press, 2006), 101.

⁴ *Ibid.*, 102.

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.”⁵ It does advocate liberty and equality; however, there is essentially no mention of promoting cultural diversity.

In fact, French president Nicholas Sarkozy has publically claimed that multiculturalism is a failure and the lack of a national identity can lead to extremism. Earlier this year, he remarked in a televised interview:

Of course we must all respect differences, but we do not want ... a society where communities coexist side by side. If you come to France, you accept to melt into a single community, which is the national community, and if you do not want to accept that, you cannot be welcome in France... We have been too concerned about the identity of the person who was arriving and not enough about the identity of the country that was receiving him.⁶

There is currently a much greater emphasis on assimilation and the adoption of a French cultural identity, especially for impressionable young immigrants.

Immigration has also been an issue of contention for the state over the past few decades. In the wake of World War II, there was an economic boom in Europe which encouraged the influx of migrant workers, especially from the former French colonies (North African countries), such as Algeria, Morocco and Tunisia. By the early 1980s, France had approximately 5 million Muslims, comprising almost 10 percent of the population and making it the second largest religious group in the country (following

⁵ French Constitution (1958), Article 1

⁶ Agence France-Presse, “Multiculturalism 'clearly' a failure: Sarkozy,” *National Post*, February 10, 2011, accessed November 17, 2011., <http://www.nationalpost.com/news/Multiculturalism+clearly+failure+Sarkozy/4261825/story.html>.

Roman Catholics).⁷ However, when economic prosperity declined, tensions rose. Many immigrants faced unemployment and segregation due to forced relocation in the outskirts of big towns. Friction intensified between Muslims and non-Muslims due to the growing socioeconomic divide. The first major incident regarding the headscarf only aggravated the situation.⁸

The Headscarf Ban in France

In 1989, three Muslim students were expelled from school for refusing to remove their headscarf. The incident, referred to as the “headscarf affair,” immediately gained media attention and initiated the debate in France about the rights of minority groups, religious expression in schools, and integration of the immigrant population.⁹ The minister of education, Lionel Jospin asserted the need to respect the “secularity of the school” but also noted that “school is made for receiving children and not for excluding them.”¹⁰ Although the National Education Council strongly disagreed with his assessment, Jospin consulted the *Conseil d’Etat*, the highest administrative court, which ruled that the right to wear *hijab* did not contradict *laïcité*. It also stated that there was a fundamental right to freedom of expression and religion, but that this freedom

... cannot afford students to display signs which by their nature, by the conditions under which they would be brought individually or collectively, or by their ostentatious character, amounted to an act of pressure, provocation, proselytism or

⁷ Ellen Wiles, “Headscarves, Human Rights, and Harmonious Multicultural Society: Implications of the French Ban for Interpretations of Equality,” *Law & Society Review* 41, no. 3 (2007): 701, accessed on November 16, 2011, <http://www.jstor.org/stable/4623399>.

⁸ Ibid.

⁹ Caitlin Killian, “The Other Side of the Veil: North African Women in France Respond to the Headscarf Affair,” *Gender and Society* 17, no. 4 (2003): 567, accessed November 17, 2011, <http://www.jstor.org/stable/3594658>.

¹⁰ Ibid., 571.

propaganda would undermine the dignity or freedom of the student or other members of the educational community, jeopardize the health or safety, disrupt the conduct of teaching and the educational role of teachers, and finally disturb the order in the establishment or normal operation of public service.¹¹

For the first time in France, there was an issue related to identity that was so controversial and in the eyes of critics, toleration of the wearing of the headscarf “represented an unacceptable subordination of women.”¹² The Muslim community, which was “large in number (and in that sense threatening to a French sense of identity), [was perceived as] visibly ‘different,’ resentful and discontented,”¹³ as they requested special concessions for students in order to abide by the Muslim faith. Feminists also joined in the debate, injecting “further controversy into an already seething dispute by identifying the headscarf issue with an exploitation and domination of vulnerable Muslim girls and young women by aggressive males.”¹⁴ The headscarf debate was now in the public and in the eyes of many French citizens, a challenge to its core principle of secularism. What was originally a “discrete local problem [had] developed into a crisis of French national identity.”¹⁵ According to Trica Keaton, while the court attempted to rule in accordance with the right to freedom of religion, “the ambiguous phrasing of [the court’s] ruling made it subject to multiple partisan interpretations that led to the same end: the expulsion of girls from schools whose sole crime is to be Muslim and to wish (or be forced) to

¹¹ National Assembly, “Notice of the State Council on the wearing of religious symbols in schools”, 1989. <http://www.assemblee-nationale.fr/site-jeunes/laicite/fiche-dates/fiche-1989/fiche.pdf>.

¹² Harry Judge, “The Muslim Headscarf and French Schools,” *American Journal of Education* 111, no. 1 (2004): 9, accessed November 12, 2011, doi: 10.1086/424718.

¹³ *Ibid.*, 9.

¹⁴ *Ibid.*, 10.

¹⁵ Norma Claire Moruzzi, “A Problem with Headscarves: Contemporary Complexities of Political and Social Identity,” *Political Theory* 22, no. 4 (1994): 653, accessed November 16, 2011, <http://www.jstor.org/stable/192043>.

cover their hair as part of their cultural or religious practices.”¹⁶

While tensions continued to mount throughout the 1990s, it was not until 2003 that the headscarf debate was fully back in the limelight. With tensions high within the Muslim population, the government continued to attribute the problem to the “presence of religious symbols (and particularly Muslim headscarves) in schools, in effect judging the key social problem to be Muslims' non-acceptance of ‘Frenchness.’”¹⁷ In July 2003, President Jacques Chirac (of the center-right party, Union for a Popular Party) appointed a committee to confront any challenges related to the practice of *laïcité*. While the Stasi Commission made several recommendations, including the improvement of living conditions in some communities, the media only focused on one: “anything that compromised the neutral character of the French state in matters of religion must be detected and condemned, and offending anomalies removed.”¹⁸ Furthermore, the commission cited that French schools were intended to assure “autonomy” and “openness to cultural diversity” in the name of gender equality and secularity. The Commission’s report stated that the headscarf did not correspond with this view.¹⁹ In March 2004, the French parliament voted to decide whether or not to ban religious symbols within the public school system. The ban was subsequently approved with 494 votes to 36, and a French law was passed (2004-228) banning religious insignia in government-operated primary and secondary schools in France. The Chirac administration reasserted that the decision was about neutrality of the state, “inclusiveness”, and secularism; “every effort was, and is being, made to present the new law (effective from September 2004) as

¹⁶ Keaton, *Muslim Girls and the Other France*, 182.

¹⁷ Wiles, “Headscarves, Human Rights, and Harmonious Multicultural Society,” 702.

¹⁸ Judge, “The Muslim Headscarf and French Schools,” 13.

¹⁹ Wiles, “Headscarves, Human Rights, and Harmonious Multicultural Society,” 703.

neutral and nondiscriminatory, and above all as not being aimed specifically at Muslims.”²⁰ However, while it refers to general “conspicuous” religious attire, the law has been perceived by the local and international community to be directed towards the *hijab*.

The ban was greeted with an immediate public outcry, both domestically and internationally. Even before the ban, there were street protests both in France and throughout the Muslim world in cities like Cairo, Tehran, Gaza, Amman and Beirut. Since the ban went into effect, the atmosphere within France has remained divided. While some agreed that the ban is in line with France’s secular agenda (a majority even wanted them banned from streets and other public spaces),²¹ others felt that it impinged on fundamental human rights and was an expression of xenophobia and Islamophobia. The French Council of the Muslim Faith, a national elected body set up by the government, has opposed the ban, claiming that it questions the loyalty of French Muslims. Members of the opposing socialist party feel that it divides the country, rather than serves it. According to an article in *The Economist*, while most French people back the ban (69 percent), French Muslims are more divided. A survey in *Elle* magazine found that 49 percent of French Muslim women support it, while 43 percent are against.²² While most Muslim girls complied and removed their headscarves, approximately 50 expulsions were handed out in response to students’ refusing to remove their *hijab*.²³ Some students resorted to home-schooling or enrolled in Roman Catholic schools, as this

²⁰ Judge, “The Muslim Headscarf and French Schools,” 14.

²¹ T. Jeremy Gunn, “Religious Freedom and Laïcité: A Comparison of the United States and France”, *Brigham Young University Law Review* (Summer 2004): 419, accessed November 2, 2011, <http://www.law2.byu.edu/lawreview4/archives/2004/5GUN-FIN2.pdf>.

²² “Veil of tears: The French government courts unpopularity with Muslim countries,” *The Economist*, January 15, 2004, accessed November 17, 2011, <http://www.economist.com/node/2354550>.

²³ Wiles, “Headscarves, Human Rights, and Harmonious Multicultural Society,” 703.

enabled them to practice religion freely since there is more emphasis on spirituality than secularism. Educators estimate that nearly 10 percent of students in Catholic schools are Muslim.²⁴

Muslim groups within France and Islamic leaders outside the country have been outspoken in their belief that the ban is blatantly directed towards the Islamic community. In the international community, there are mixed feelings as well. Many scholars have written books and articles contesting the decision, claiming that it both segregates and isolates the Muslim community. The questions that arise from the debate are numerous. How can secularism, which entails freedom of thought and respect for all religions, be the reason for denying French Muslim women personal expression as well as liberty of conscience? Does the ban really promote “positive secularism” or is it a step backwards in achieving a culturally pluralistic society? I will discuss these questions and more in an attempt to understand the controversy surrounding the *hijab*.

Arguments: Threat to French Norms of Secularism & Equality

Liberté, égalité, fraternité. “Liberty, equality, fraternity” is the national motto of France. These three notions originated as the driving principles of the French Revolution (1789), when a revolutionary movement of left-wing political groups and the masses overthrew an absolute monarchy, a rigid social hierarchy and an aristocracy. The revolution also “dechristianized” France by weakening the immense power of the Roman Catholic Church and establishing a separation between church and state. The Church

²⁴ Katrin Bennhold, “Spurning Secularism, Many French Muslims Find Haven in Catholic Schools,” *The New York Times*, September 29, 2008, accessed on November 17, 2011, <http://www.nytimes.com/2008/09/30/world/europe/30schools.html?pagewanted=all>.

played a major role in the economic, political and social affairs of the state and thus was highly influential in state policies and behavior. Nationalism and liberalism propelled the movement and radically transformed the social, philosophical and political realms. The Enlightenment ideals of equality, citizenship and inalienable rights prevailed and national identity was now tied to the state, instead of the monarch. A document of the Revolution, the Declaration of the Rights of Man and of the Citizen (1789) explained liberty as “being able to do anything that does not harm others: thus, the exercise of the natural rights of every man or woman has no bounds other than those that guarantee other members of society the enjoyment of these same rights.”²⁵

Benjamin R. Barber, author of *Jihad vs. McWorld*, explains the role that nationalism played in the Revolution, as it would ultimately lay the foundation for France’s current domestic policies.

Nationalism once helped fashion the states that forged the Enlightenment. As a consequence, it gained considerable momentum and a modernizing cachet of its own with the rationalistic (if often irrational) revolutions spawned by the Enlightenment... The aspiration to a ‘liberal nationalism’ that united the cosmopolitan ideals of liberty and equality with the communitarian ideals of fraternity and solidarity motivated the Jacobins and the American founders alike, and permitted peoples bound by culture and history nonetheless to fashion constitutions founded on rights and reason.²⁶

The ideals of the national motto were written into the French Constitution of the Third Republic in 1958; the slogan sets forth for all French people the “common ideal of

²⁵ Declaration of the Rights of Man and of the Citizen (1789), Article 4.

²⁶ Benjamin R. Barber, *Jihad vs. McWorld* (New York: Ballantine Books, 1995), 158-159.

liberty, equality and fraternity and [was] conceived for the purpose of their democratic development.”²⁷ Today, it is an essential component of national French heritage.

Laïcité (or the separation of Church and State) is another underlying concept of the French republic. It does not involve a simple separation, but the regulation and administration of religious practice and institutions by the state.²⁸ Its roots can similarly be traced to the French Revolution, with the resulting decline in influence of the Catholic Church. The 1789 Declaration stated, “no one may be disturbed on account of his opinions, even religious ones, as long as the manifestation of such opinions does not interfere with the established Law and Order.”²⁹ In 1905, the Chamber of Deputies passed a law to formally introduce a state policy on secularism. The French law on the Separation of the Churches and State states: “the republic assures liberty of conscience. It guarantees freedom of worship subject only to the restrictions herein imposed in the interests of public order.”³⁰ The 1905 law set forth the human rights of freedom of thought and freedom of religion, as well as the neutrality of the state. Ellen Wiles explains the law further:

Separation of church and state was for a long time only partial; it was not until 1905 that total secularism was imposed, and any state recognition, funding, or endorsement of any religious groups was prohibited; the Code of Education was accordingly amended to impose a prohibition on endorsement of any religion in state schools. This did not in practice lead to any restriction on religious dress; school administrators tolerated schoolchildren wearing a range of symbols from

²⁷ The French National Assembly, Constitution of October 4, 1958, Preamble.

²⁸ Emilie A. Olson, “Muslim Identity and Secularism in Contemporary Turkey: ‘The Headscarf Dispute’,” *Anthropological Quarterly* 58, no. 4 (1985): 163, accessed November 21, 2011, <http://www.jstor.org/stable/3318146>.

²⁹ Declaration of the Rights of Man and of the Citizen (1789), Article 10.

³⁰ 1905 French law on the Separation of the Churches and State, Article 1.

Christian crosses to Jewish kippahs, and no controversy over the matter arose for almost a century.³¹

That is, until, the headscarf debate. Today, secularism remains an essential part of the French government's stance and policies. It "rests on the concept of the universal equality of abstract individuals,"³² and is "a foundational value, at the core of French uniqueness, and an inspiring model for the entire world."³³ The headscarf ban is example of enforcing *laïcité*.

It is clear that for many living in France, the headscarf is viewed as a threat to the fabric of French society and the goal to maintain a cohesive, national French identity. In order to be "French," girls must be unveiled. In a country that has the largest Muslim population in Europe, the headscarf is viewed as a direct challenge to the French revolutionary principles of secular education and secular nationalism. Scholar Harry Judge explains:

To be French is to be *Républicain* is to be *laïque* is to be committed to *égalité*. This composite identity has been forged over many centuries, repeatedly contested and modified, often imposed from Paris on recalcitrant dissidents, transmuted from a monarchical to a constitutional framework, and by the end of the last century brought to an apparently stable equilibrium. The maintenance of that equilibrium is widely believed to depend on the exclusion of religion from the public school, for religion had proved to be inherently and inevitably divisive. It follows that *éclatement*, or any form of fragmentation, is to be deeply feared.³⁴

The headscarf also serves as a symbol of a separate issue – the fear of the "other." Islamic scholars assert that both xenophobia and Islamophobia are prevalent throughout

³¹ Wiles, "Headscarves, Human Rights, and Harmonious Multicultural Society," 701.

³² Natalie Davis Zemon. Review of *The Politics of the Veil*, *Common Knowledge* 15 (2009): 96-96, accessed on November 17, 2011, doi: 10.1215/0961754x-2008-046.

³³ Gunn, "Religious Freedom and Laïcité," 428.

³⁴ Judge, "The Muslim Headscarf and French Schools," 17.

western countries, where there is a “biased perception which mainstream societies hold of Muslim ethnic communities living in their midst.”³⁵ This was evident in the November 1989 demonstrations against the “Islamisation of France”, where citizens, responding to the “headscarf affair”, protested against the spread of Islam. The crisis “revealed the xenophobia of groups seeking a scapegoat for the economic and social ills of the country.”³⁶ For some, the influx of Muslim immigrants and the spread of Islamic norms are threatening, as there is a “tendency to view Islam as an intrusion into western culture. Muslims tend to be described and interpreted by the West as ‘other,’ ‘non-us,’ or ‘them’ with Islam ‘held up as an alien religion against an idealized, unhistorical Judeo-Christian mirror... Islam has become a political and social force increasingly impinging upon the consciousness of western societies.”³⁷ There is a desire to preserve western culture, language and norms. Additionally, to those opposing the veil, there is a belief that:

... those who wear the headscarf are not really French and they prefer their Muslim (or perhaps even Islamic) identity over their French identity. Thus, the headscarf is increasingly seen as the symbol of a foreign people—with a foreign religion—who have come to France, but who do not wish to integrate themselves fully into French life or accept French values. From this perspective, when the French see the headscarf they do not feel pride that their country is tolerant and welcoming of other peoples and religions, but rather they feel something foreign and non-French has infiltrated their society.³⁸

The *hijab* is perceived as a threat to social integration and the maintenance of a French identity. Although proponents of the headscarf ban often discuss unity and “secularism --

³⁵ El-Solh & Mabro, *Muslim Women's Choices*, 2.

³⁶ *Ibid.*

³⁷ *Ibid.*, 3.

³⁸ Gunn, “Religious Freedom and Laïcité,” 418-419.

a topic connected to political philosophy -- the terms of the debate have been articulated in the vocabulary of anthropology, namely, as 'us' and 'them.'”³⁹

According to French law, the state can also limit civil liberties (such as wearing religious clothing) when “public order” is being disturbed.⁴⁰ The Stasi Commission viewed the removal of religious clothing in public schools as promoting public order, as the headscarf was viewed as causing disorder in French society. It cites two specific reasons for the disorder: (a) the girls were being forced or coerced to veil by their families or communities against their will (thus causing sexual discrimination and religious polarization within France); and (b) school officials were facing administrative difficulties when forced to implement confusing directives in situations of intense pressure.⁴¹ Additionally, it states,

For the school community as a whole, the wearing of the veil is too often a source of conflicts, of divisions, and even of suffering. The visible character of religious insignia is resented by many as contrary to the school’s mission which should be a place of neutrality and a place for awakening critical awareness. It is also an affront to the principles and values of the school, especially in teaching equality between men and women.⁴²

For the aforementioned reasons, the authorities labeled the headscarf as a threat to public disorder.

With regard to gender equality, the veil is perceived as a threat to women’s rights

³⁹ Nailini Rajan, “French Secularism, Headscarves, and Indian Schoolchildren: Anthropological Concerns of Political Philosophy,” *Economic and Political Weekly* 39, no. 36 (2004): 3968, accessed on November 12, 2011, <http://www.jstor.org/stable/4415489>.

⁴⁰ Gunn, “Religious Freedom and Laïcité,” 466.

⁴¹ *Ibid.*, 419.

⁴² Stasi Report, “The Report Of The Committee Of Reflection On The Application Of The Principle Of Secularity In The Republic,” (2003), 57.

and a tool to keep women in submission, thereby harming them. In its report, the Stasi Commission declared that there was a need to “respond to the coercion suffered by Muslim girls whose families and communities force them to wear headscarves against their will (and because such coercion exacerbates sexual discrimination and religious polarization within France).”⁴³ The Commission found that girls were coerced into wearing the *hijab* and it was the government’s obligation to protect them from this oppression. It continues:

The headscarf is sometimes imposed on pre-adolescent girls by violence. Once they have put on the headscarf, they can enter into the staircases of apartment buildings and go into the public without fear of being conspicuous, even mistreated, as they were when their heads were uncovered. The headscarf thus offers, paradoxically, the protection that should have been guaranteed by the Republic... [The girls] appear as the “silent majority”; [as they are] victims of pressure imposed by the family or community, the young women need to be protected... There are pressures placed on these young minor girls to force them to wear religious insignia. The family and social environment imposes a choice on them that is not their own. The Republic cannot remain deaf to the cry of distress of these young girls. The schools must be for them a place of liberty and emancipation.⁴⁴

After the ban was implemented, President Nicolas Sarkozy stated: “in our country, we cannot accept that women be prisoners behind a screen, cut off from all social life, deprived of all identity.” This belief is rooted in colonial attitudes that see the veil as oppressive: France embarked on a mission to unveil women in Algeria from the early twentieth century to the Algerian war of independence in the 1960s.⁴⁵ At that time, Muslim women donned the *hijab* in defiance of colonialist perspectives. The veil is not

⁴³ Stasi Report, 31.

⁴⁴ Stasi Report, 47+58.

⁴⁵ Ahmed, “The Veil Debate – Again,” 155-156.

only perceived as threatening to secularism, but to the promotion of women's rights within the country. For feminist advocates of the ban, the argument "does not distinguish between women who are citizens and those who are foreigners—women are subjects of a universal discourse of human rights and should be protected, whatever their nationality."⁴⁶

Arguments Against the Ban: The Matter of Rights

While prohibiting the *hijab* is meant to create a secular, more inclusive society, the ban secludes Muslim women and denies them the freedom to practice religion freely. Furthermore, it limits freedom of thought and choice, the basic ideals of any democratic society. The ban is said to emancipate Muslim girls, to free them from the overbearing pressure to wear the veil. However, in doing so, the law penalizes those who choose to wear it and alienates them further if they get expelled. It does so with a Western bias that does not take cultural relativism into account, as the "policy of banning Muslim women from wearing headscarves has in fact been detrimental to the exercise of their rights, acting to further exclude them from European societies in the name of supposedly universal, but arguably Eurocentric conceptions of women's rights."⁴⁷ It also "goes against the traditional role of schools, which is to cultivate future citizens as a means of

⁴⁶ Miriam Ticktin, "Sexual Violence as the Language of Border Control: Where French Feminist and Anti-immigrant Rhetoric Meet," *Signs* 33, no. 4 (2008): 879, accessed November 18, 2011, <http://www.jstor.org/stable/10.1086/528851>.

⁴⁷ Jane Freedman, "Women, Islam and rights in Europe: beyond a universalist/culturalist dichotomy," *Review of International Studies* 33 (2007): 29, accessed on November 11, 2011, doi: 10.1017/S0260210507007280.

creating universal subjects.”⁴⁸ It not only denies girls the right to practice their religion freely, but also inhibits their entry to the public school system.

For women who wear the veil for non-religious reasons, be it tied to culture, identity, community and/or sexuality, the ban denies them the fundamental human right – the right to choose. It restricts their autonomy, and impacts their inherent right to “develop and express their own individual identities.”⁴⁹ While freedom of thought was listed as a core tenet of *laïcité*, the ban denies French girls this right:

The post-colonial French state refuses to allow women of immigrant origin to be subjects in and of themselves—desires and intentions are assumed for them. They are presumed to be devoid of reason and unable to make rational choices, perhaps even more so than colonial subjects, who were at least considered able to choose, even if their choices were not respected.⁵⁰

Civil liberties, including the formation and expression of one identity, should be available to all citizens of a country, not just those identifying primarily with the dominant identity.

The question becomes: Although the headscarf is perceived as threatening, does it harm those who wear it, or society at large? While there are some cases where it is forced upon a woman, most women who wear the headscarf *choose* to do so! With regard to the Stasi Commission’s report, the committee constantly reinforced the disruption of public order and the forced veiling upon women. However, in doing so, it failed to provide any sort of actual analysis or acknowledge those who chose to wear the headscarf. Furthermore, it failed to provide an unbiased discussion of other religious insignia (such as the Jewish skullcap) or provide any sort of real evidence about coercion

⁴⁸ Ibid., 872.

⁴⁹ Jill Marshall, “Conditions for Freedom? European Human Rights Law and the Islamic Headscarf Debate,” *Human Rights Quarterly* 30, no. 3 (2008): 631, accessed November 16, 2011, doi: 10.1353/hrq.0.0028.

⁵⁰ Ticktin, “Sexual Violence as the Language of Border Control”, 884.

or even undue pressure on school officials.⁵¹ While the commission stresses the threat posed by the presence of headscarves in public schools, it does not provide substantial evidence in determining that harm to self or society is involved.

In sum, the dilemma emerges out of the tensions associated with multiculturalism. In essence, secularism promotes assimilation, rather than the advancement of distinct cultural norms and practices. This begins with the very ideals of the French revolution; as Barber notes:

The aspiration to dialectic has in this century more often than not been contradicted by the reality. Liberty and fraternity were brother constructs of the French revolution, but like Cain and Abel were born to strife. Embeddedness means, if not exactly subjugation to an extended communal identity, membership in entities that constrain choice.⁵²

While secularism is nice in theory – in that it emphasizes equality for all citizens – it was implemented in a specific historical context – to protect the French from the domination of the Church.⁵³ The refusal to conform to a secularized identity (and wear “ostentatious” religious symbols) is interpreted as disloyal to the Republic. Also, for those who see the headscarf as threatening to France’s founding principles, “multiculturalism can only be inherently destructive of the integrity of society, which must be only an agglomeration of individual and equal citizens and never degenerate into a patchwork of diverse communities.”⁵⁴

⁵¹ Gunn, “Religious Freedom and Laïcité.”

⁵² Barber, *Jihad vs. McWorld*, 160.

⁵³ Patrick Weil, “Why French Laïcité is Liberal,” *Cardozo Law Review* 30, no. 6 (2009): 2704, accessed on November 18, 2011, <http://www.cardozolawreview.com/content/30-6/WEIL.30-6.pdf>.

⁵⁴ Judge, “The Muslim Headscarf and French Schools,” 17.

Islam is seen as the biggest challenge to France's secular model in the past 100 years.⁵⁵ The integration of non-western norms, such as the *hijab*, into western culture is perceived as threatening; as a result, certain human rights, such as freedom of religion, thought, and self-identity, are denied. While the French authorities make valid claims about the importance of *laïcité* and gender equality, the resulting policy of the headscarf ban prevents individuals from experiencing other freedoms guaranteed by western culture. In this case study, there appears to be no visible harm to self or society; furthermore, no harm was discernible to women, although feminists and officials claim otherwise. As there is no evidence to prove the headscarf is forced upon a woman, my review has found that most women choose to wear the hijab. It is wrong to assume that women are never forced to wear the veil, as I maintain that it is a possibility. However, without any evidence demonstrating this, the denial of human rights is not a justified abrogation.

In the next chapter, I will present the case study of Turkey; while the country has a very different history from France, it is facing similar issues in achieving multiculturalism.

⁵⁵ Henri Astier, "*Ghettos Shackle French Muslims*", *BBC News*, October 30, 2005, accessed November 19, 2011, <http://news.bbc.co.uk/2/hi/europe/4375910.stm>.

Chapter V: The Headscarf Ban in Turkey

In this chapter, I will present the case study of Turkey. Like France, the Republic of Turkey was founded with secularism as a main principle. However, unlike its European counterpart,¹ Turkey is a primarily Muslim country, with 98 percent of the population identifying as Muslims.² While the predominant culture is western, the country had an ancient, non-western cultural history up until it was “modernized” on its creation as a republic. This makes the fact that it has banned the headscarf – and in this case, the law extends to public institutions and universities – a very interesting comparison.

Background: The Nature of Turkish Society

The Republic of Turkey was established in 1923, after the fall of the Ottoman Empire. For over six centuries, the long-lasting empire included Turkey, and was heavily influenced by Islamic culture and institutions. It was mostly ruled by an absolute monarchy, consisting of a sultanate that influenced all political, social, and economic affairs of the state. In the aftermath of World War I, the Allied Powers sought to partition the empire after its downfall with the *Treaty of Sèvres*. However, in 1923, the Turkish National Movement, led by Mustafa Kemal Atatürk, defeated the Allies in the Turkish

¹ Turkey is located in EurAsia, as it located in Western Asia (mostly in the Anatolian peninsula) and in East Thrace in Southeastern Europe.

² The Pew Forum on Religion & Public Life, “Mapping the Global Muslim Population: A Report on the Size and Distribution of the World’s Muslim Population,” *Pew Research Center*, October 2009, accessed November 18, 2011, <http://pewforum.org/uploadedfiles/Topics/Demographics/Muslimpopulation.pdf>.

War of Independence. A new government was formed, containing parliamentary, democratic, secular, unitary, and constitutional elements.

With the creation of the republic, Atatürk implemented drastic changes in the government and its respective policies, aiming to transform the newly-formed state into a modern, westernized country. “The abolition of the sultanate and caliphate, introduction to secularization, adoption of Western law, liberal capitalism, and industrialization became signposts on the road the Turks were told they would travel henceforth.”³ Inspired by the west and its progress, Atatürk radically reformed the policies of the previous government, focusing on individual liberties and secularism. By focusing on political and cultural changes, the president hoped Turkey would advance and be accepted by Europe. The 1924 Constitution of Turkey emphasized the democratic and secular rights of all Turkish citizens. With regard to individual liberties, it states:

All citizens of Turkey are endowed at birth with liberty and full right to the enjoyment therefore. Liberty consists in the right to live and enjoy life without offense or injury to others. The only limitations on liberty – which is one of the natural rights of all – are those imposed in the interests of the rights and liberties of others.⁴

It emphasized “freedom of conscience, of thought, of speech.”⁵ With regard to religious freedom and secularism, it sets forth similar rights as France:

No one may be molested on account of his religion, his sect, his ritual, or his philosophic convictions. All religious observances shall be free on condition that they do not disturb the public peace, or shock public indecency or exist in violation of social conventions or the law.⁶

³Lois Beck and Nikki Keddie, *Women in the Muslim World* (Cambridge: Harvard University Press, 1978), p. 324.

⁴ Constitution of Turkey (1924), Article 68.

⁵ Constitution of Turkey (1924), Article 70.

⁶ Constitution of Turkey (1924), Article 75.

While the constitution originally mentioned that the “religion of the Turkish state is Islam,” this was later removed (1937) since it violated the secular spirit of the constitution.

Kemalism, or Kemalist ideology developed during the Turkish National Movement, consists of “six arrows”: republicanism, nationalism, populism, revolutionism, secularism, and statism. The principle of nationalism “held up a distinctly Turkish identity to replace the pan-Islamism of the Ottoman Empire”; secularism “justified a far-reaching overhaul in the power of religion in the state,” as Atatürk, favoring Western habits and science, abolished religious schools and legalized alcohol.⁷ He also established the Directorate of Religious Affairs in order to manage religion and religious education, in order to “reorient the Turkish population towards secularist, modernist, and nationalist ideals.”⁸ The constitution, as well as Atatürk’s reforms, were in accordance with this Kemalist philosophy. Turkey’s later constitutions would continue to grant such rights to citizens. The 1961 Constitution of Turkey was even more liberal and democratic, specifically outlining many human rights and mentioning “social justice” and “human dignity”; it also established a national assembly and senate. The current constitution, created in 1982, has gone through many amendments, but continues to stress secular democracy and also the “fundamental rights and freedoms” of the individual.

It is important to note that women’s rights and integration were also an integral part of state policy, mainly conducted through the deconstruction of the public/private divide and the modernization of traditional roles. Women were granted suffrage and the

⁷ “Six Arrows: The Tenets of Kemalism,” *Los Angeles Times*, January 15, 1991, accessed November 20, 2011, http://articles.latimes.com/1991-01-15/news/wr-324_1_mustafa-kemal-ataturk.

⁸ Anna Secor, “Islamism, Democracy, and the Political Production of the Headscarf Issue in Turkey,” in *Geographies of Muslim Women: Gender, Religion, and Space*, ed. Ghazi-Walid Falah and Caroline Nagel (New York: The Guilford Press, 2005), 206.

right to run for domestic and national elections in 1934; girls were to be educated with boys, and many began to attend vocational women's schools and find employment.⁹ Women gradually became fully assimilated into society, with more professional women in the public space and an emphasis on a "neuter role" (in which sexual identity does not interfere with professional identity or behavior) in public occupations.¹⁰ In the current constitution, Article 10 bans discrimination on the basis of sex, and states: "Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice."¹¹

With regard to Islamic dress, the topic has been one of contention and debate since the creation of the republic. As one of his many reforms that adopted Western law and culture, Atatürk immediately encouraged European dress and denounced the headscarf, viewing it as an archaic and backwards practice.¹² While the headscarf would not be officially banned until later (it would be a gradual process), it was discouraged, especially for public servants, since it did not coincide with the republic's *laïcité* agenda. Men were also instructed to westernize their dress, as "not only was the new face of the republic a shaven one, but the late Ottoman fez was banned and replaced by the brimmed hat in public affairs." The Hat Law (1925), along with the Law Relating to Prohibited Garments (1934), which mandated modern suits instead of the veil and turban, were passed but not strictly enforced. The abandonment of traditional clothing and the elimination of over religious symbols intended to modernize and reconstruct social

⁹ Ibid.

¹⁰ Mary-Jo DelVecchio Good, "A Comparative Perspective on Women in Provincial Iran and Turkey," in *Women in the Muslim World*, edited by Lois Beck and Nikki Keddie (Cambridge: Harvard University Press, 1978), 493.

¹¹ Constitution of Turkey (1982), Article 10.

¹² Secor, "Islamism, Democracy, and the Political Production of the Headscarf Issue in Turkey," 206.

spaces. “Through the reorganization of elements of dress, bearing, and manners, the Kemalists attempted to create embodied cultural forms that would facilitate the inscription of a new Turkish national identity.”¹³

The Headscarf Ban In Turkey

The headscarf ban would be gradually introduced over the years. This would ultimately end with the ban in universities and public institutions, as the government progressively increased limitations on religious clothing. As mentioned, it was shunned from the very beginning of the republic’s establishment, as only a move away from Ottomanism and Islam would allow for westernization. By liberating women, the state hoped to create a civilized society and solidify a national Turkish identity.

This line of thinking, which reflected the core constitutional tenet of the founding ideology of the new Turkish state, maintained that women’s place and role in society are the most significant indicators that Turkey is a modern and civilized country, a goal that can be achieved if and only if Turkey distances itself from Islam. The image of the modern, Westernized, liberated woman in the public sphere, which was attained by the erasure of the mark of Islam—the veil—from the body, was a matter of the realization of the foundational cause of the new Turkish state toward acquiring a modern and civilized identity.¹⁴

In the 1970s and 1980s, “politics began to bifurcate between parties who sought a relaxation of the secularist policies and more militant secularists, and the headscarf was used as a symbol in that divide.”¹⁵ However, a growing number of students began to don headscarves as a political symbol in the Islamic Revival period, “giving a new sort of

¹³ Ibid.

¹⁴ Alex Cinar, “Subversion and Subjugation in the Public Sphere: Secularism and the Islamic Headscarf,” *Signs* 33, no. 4 (2008): 901, accessed November 21, 2011, <http://www.jstor.org/stable/10.1086/528850>.

¹⁵ Wiles, “Headscarves, Human Rights, and Harmonious Multicultural Society,” 709.

visibility to Islam in the public sphere, contrary to the secularist norms sanctioned by the state.”¹⁶ As a result, the government was compelled to change existing dress regulations in order to maintain constitutional secularism. The Regulation Concerning the Dress of Students and Staff (1981) extended the regulations to students in schools and the Disciplinary Regulation for Students in Higher Education (1985) imposed a mandatory punishment for those who did not comply.¹⁷ For the next several years, there was much confusion as universities, government officers and the Constitutional Court would go back and forth on whether or not the *hijab* was allowed in universities. In February 1997, however, the National Security Council classified the headscarf as a threat to national security; it declared that it was one of the main indicators of the ‘Islamic threat’ – the single most important threat to the well-being and security of the country – and called for a ban on the headscarf in all public places.¹⁸ The Turkish military issued an ultimatum to the government, demanding that the civilian authorities implement and enforce the ban without exception.¹⁹

Since then, the headscarf has remained a sensitive social issue. Amidst protests from Muslim women wanting to wear the *hijab* and a general concern to provide education for all, the Turkish parliament repealed the ban in February 2008, allowing women to wear the headscarf in universities. It also amended the Constitution, guaranteeing education and equal treatment from state institutions for all. In June, the Constitutional Court annulled the ban lift, claiming that it was not in line with the state’s secular policy. Currently, the ban has been informally lifted as of September 2010 as the

¹⁶ Cinar, “Subversion and Subjugation in the Public Sphere,” 891.

¹⁷ Wiles, “Headscarves, Human Rights, and Harmonious Multicultural Society,” 709.

¹⁸ Cinar, “Subversion and Subjugation in the Public Sphere,” 891.

¹⁹ Wiles, “Headscarves, Human Rights, and Harmonious Multicultural Society,” 709.

ruling party (Justice and Development Party) has vowed to support any student expelled or disciplined for covering her head.²⁰ With the recent rise of the new political party, there has been a shift away from liberal secularism and towards more conservative government policies; religious freedom is also part of the democratization agenda. However, as the law has yet to be formally changed, the country remains in a deadlock on the issue.

Arguments for the Ban: Secularism and Potential Political Threat

The headscarf ban in Turkey has been the source of much conflict since its inception in 1980s. For the past three decades, the struggle between state secularists and political Islamists has been tense. For those supporting the ban, “the resistance to headscarves among many secular Turks seems to be driven by something deeper - a belief that the rigorous adherence to Islam it symbolizes in the wearer will eventually reverse the modernization of Turkish society under its strictly secular system.”²¹ When the ban was being initially questioned in 2008, protestors stormed the streets and carried signs stating, “Turkey will not become Iran!”²² Many feared that lifting the ban would undermine secularism and bring religion too far into the public sphere; they also worried the veil was a symbol of political Islam. On the other hand, in a country where nearly 73 percent of women go out with their heads covered,²³ many Turkish women, who often wear the *hijab* as a political symbol as opposed to a religious one, have protested the law.

²⁰Jonathan Head, “Quiet end to Turkey’s college headscarf ban,” *BBC News*, December 31, 2010, accessed November 21, 2011, <http://www.bbc.co.uk/news/world-europe-11880622>.

²¹ *Ibid.*

²² Jane Clark, “Turkey, the Headscarf, and Secularism,” *National Review Online*, June 28, 2010, accessed November 21, 2011, <http://www.nationalreview.com/articles/243349/turkey-headscarf-and-secularism-jane-clark?pg=1>.

²³ 2000 nationwide survey; Secor, “Islamism, Democracy, and the Political Production of the Headscarf Issue in Turkey,” 207.

Protests, hunger strikes and even legal cases have been prevalent throughout the years. Many see the right to wear the veil as a democratic right and religious freedom. For the ruling party, “Turkey has outgrown the headscarf ban. It is no longer in danger of reverting to an Islamic theocracy, as Atatürk feared.”²⁴ In the secular yet predominantly Muslim country, the headscarf debate has certainly been heated.

The controversy in Turkey is directly related to the government’s westernization agenda and continued focus on secularism. A great deal of Turkish policy concerns a desire to be western and accepted by Europe. Over the years, it has become increasingly integrated with the West. It is a member of multilateral institutions such as the Council of Europe, North American Treaty (NATO), Organization for Economic Co-operation and Development (OECD), and Organization for Security and Co-operation in Europe (OSCE). Turkey was one of the founding members of the United Nations and has since been actively involved. However, one of the biggest challenges facing Turkey is its accession to the European Union. While it is currently in full membership negotiations, it has been adjusting its national and foreign policy since first applying for full membership in 1987. It has been an associate member of the European Economic Community since 1963 and signed a customs union agreement with the European Union in 1995. However, the road to attaining accession has been a difficult one.

With regard to the headscarf debate, the European Union claims to have a neutral stance, as there is no common implementation among its members. The EU Enlargement Commissioner has also stated that the European Court of Human Rights leaves the headscarf decision to the countries. In 2004, however, the Court rejected an appeal by a Turkish woman who was barred entry from her university. A few years earlier, Leyla

²⁴ Ibid.

Şahin was denied entrance into lectures and examinations on multiple cases. The following year (1998), she filed an application with the European Commission for Human Rights under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms, claiming that the headscarf ban in higher education institutions violates her right to privacy (Article 8), freedom of thought, conscience and religion (Article 9), freedom of expression (Article 10) and freedom from discrimination (Article 14) of the Convention and freedom of education (Article 2) of its Protocol No. 1.²⁵ In June 2004, the seven-judge chamber European Court of Human Rights unanimously ruled against Şahin's appeal, justifying the headscarf ban in the name of secularism and as "necessary in a democratic society." Furthermore, it stated that "the court did not lose sight of the fact that there were extremist political movements in Turkey which sought to impose on society as a whole their religious symbols and conception of a society founded on religious precepts".²⁶ Interestingly enough, while Şahin's veil-wearing did not threaten public order or the liberty of others, the European Court of Human Rights decided it was not in accordance with Turkey's principle of secularism.

The headscarf ban in Turkey, as demonstrated by the *Şahin v. Turkey* ruling, "suggests that the Islamic headscarf is no longer simply considered a religious [or cultural] symbol but is increasingly perceived as a political symbol that has, in and of itself, negative implications for public order and individual freedom in a democratic

²⁵ Cindy Skach, "Şahin v. Turkey. App. no. 44774/98; 'Teacher Headscarf.' Case no. 2BvR 1436/02," *The American Journal of International Law* 100, no. 1 (2006): 187, accessed November 28, 2011, <http://www.jstor.org/stable/3518837>.

²⁶ European Court of Human Rights, Fourth Section, Case of Leyla v. Turkey, Application no. 44774/98, June 29, 2004.

society.”²⁷ Like France, the headscarf, a non-western norm, is viewed as a threat to *laïcité*. It is also seen as a political threat, as it has been associated with fundamental Islam since the creation of the republic. According to Wiles, “it is an oversimplification to argue that the headscarf is an indicator of a polarizing opposition between Islamists threatening a reversion to Islamic law and reasonable secularists seeking to retain a secular democracy and legal system.”²⁸ The Şahin case was just one of many cases brought about by women fighting to wear the *hijab* for various cultural, religious or political reasons; in not one of the cases was harm evident, especially in the form of a political Islamic threat.

The headscarf is perceived as threatening to a national Turkish identity, which Atatürk worked laboriously to create and the Turkish government has tried to preserve.

Turkish ‘nationalism’ is most typically expressed in terms indicating a desire to be a part of the ‘modern,’ secular, European- dominated international system, whether economic, political, cultural, or social. In contrast, ‘Muslim identity’ is sometimes expressed with references to membership in the ‘Muslim World,’ in the use of Arabic as the sacred language for Muslims of all nationalities, and even in the adoption of ‘traditional Muslim’ symbols – like headscarves – that have come into cross-national use but that had not previously been an integral part of Turkish Muslim practice.²⁹

In an effort to veer away from the Ottoman Muslim identity of the former empire, Kemalists sought to establish an entirely new, separate Turkish identity that promoted western ideals and culture.

However, unlike France, it is also viewed as a threat to westernization and European integration, as Turkey has been tailoring its policies for over two decades in

²⁷ Skach, “Şahin v. Turkey,” 192.

²⁸ Wiles, “Headscarves, Human Rights, and Harmonious Multicultural Society,” 710.

²⁹ Olson, “Muslim Identity and Secularism,” 166.

order to be accepted by the European Union. Wiles elaborates further, “another clear concern is that Turkey is seeking to demonstrate it is serious about reducing the systemic oppression of women in its society in order to further its bid to join the EU, and the headscarf can be used as a symbolic means of demonstrating a commitment to gender equality.”³⁰ In an effort to gain accession, the state attempts to reinforce its commitment to secularism and women’s rights with the enforcement of the ban. It is assumed that the *hijab* does not promote gender equality, but inhibits a woman’s freedom and status, along with the progress of the nation. The headscarf debate is a complex matter for the EU-focused, Muslim-majority country.

Arguments Against the Ban: A Matter of Rights

With regard to human rights, Turkey has signed various international treaties. Not only is the protection of human rights high on the European Union’s criteria, but Turkey has signed the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the European Convention for the Protection of Human Rights and Fundamental Freedom, which places it under the jurisdiction of the European Court of Human Rights. While there appears to be confusion among European Union member-states about whether the headscarf ban is a violation of human rights, I will again illustrate how it is an abrogation of human rights.

In Turkey, veiled women cannot enter courts, government buildings and offices, schools and universities. For those who wear the *hijab*, which is two-thirds of the population, this is certainly restricting. For those who wear it for religious reasons, it

³⁰ Ibid.

denies them the freedom of religious expression. For those who wear it for cultural or political reasons, which appears to be the case for a majority of Turkish women, it strips away freedom of thought and conscience, as well as the right to choose for oneself. In fact, a March 2008 study of 1,500 Turkish students in 26 universities determined that 52 percent of respondents were not in favor of the ban,³¹ demonstrating the lack of support of the ban among Turkish women.

More than it does in France, the headscarf ban in Turkey denies women the right to education. Although France has banned the *hijab* in public primary and secondary schools, Turkey extended the rule to public schools and all universities. While some women resort to wearing a cap or wig, or even studying abroad, others are excluded from schools and universities. According to the nongovernmental organization *Mazlumder* (Organization of Human Rights and Solidarity for Oppressed People), since the ban was enforced, more than 10,000 women in Istanbul alone have been excluded from universities.³² Another statistic from *AKDER* (Organization for Women's Rights of Non-Discrimination) estimated that between 2000 and 2007, approximately 270,000 of the 677,000 students expelled from post-secondary institutions were "victims of the ban."³³

Even within a population that mostly identifies with the same religion, the headscarf ban creates a divide among those who support the ban and those in favor of it. It established an "us" versus "them" dichotomy on a social level and excludes the "other," or women who want to wear the headscarf. Furthermore, "the headscarf has

³¹ Immigration and Refugee Board of Canada, "Turkey: Situation of women who wear headscarves," May 20, 2008, accessed November 20, 2011, <http://www.unhcr.org/refworld/docid/4885a91a8.html>.

³² Tabitha Morgan, "Scarf conundrum grips Turkey," *BBC News*, February 25, 2005, accessed November 28, 2011, <http://news.bbc.co.uk/2/hi/europe/3513259.stm>.

³³ Immigration and Refugee Board of Canada, "Turkey: Situation of women who wear headscarves," <http://www.unhcr.org/refworld/docid/4885a91a8.html>.

become a point of capture, a site of intensity, for the ongoing negotiation of powerful and competing ideologies circulating in Turkish society,” as it plays with Islamist, secularist and democratic discourses.³⁴ The headscarf issue has permeated Turkish society and is a multi-dimensional problem debated by Islamists, *laïcité* proponents, human rights activists and more.

In Turkey, the headscarf controversy represents the difficulty of peacefully integrating non-western culture, even in its mildest form, into western culture. The presence of the headscarf is seen as threatening to the founding principles the Turkish government has worked to protect, including secularism and a society devoid of Islamic fundamentalism. As a result, there is a denial of human rights in various forms. While like any predominantly Muslim country Turkey is prone to elements of political Islam, it is a gross oversimplification to tie the *hijab* to the rise of an extreme form of Islamic culture that is harmful to society. Is there not potential threat regarding fundamentalism with any other religions? Furthermore, is the headscarf representative of harm in and of itself? I argue that while in Turkey the headscarf is more of a cultural and political symbol, this is a reaction to the government’s policy to keep religion entirely out of the public sphere. It is linked not only to cultural tradition, but also serves to express the right to dress in accordance with one’s personal identity.

In the next chapter, the conclusion, I will discuss my findings and the status of my hypothesis.

³⁴ Secor, “Islamism, Democracy, and the Political Production of the Headscarf Issue in Turkey,” 210-211.

Chapter VI: Conclusion

Before summarizing my findings, I would like to take a minute to reiterate my original hypothesis: *Even though under certain circumstances non-western culture can be seen as threatening to western culture, this should not serve as a pretext for the abrogation of human rights, except in situations where the non-western culture can bring harm to self or others.*

In order to defend my hypothesis, I used the current headscarf debate in France and Turkey. The headscarf, representative of non-western culture in its mildest form, is often perceived as threatening to western culture. As a result, both states have banned the *hijab* in public institutions. I have maintained that this should not serve as a pretext for the denial of human rights because for the most part, the headscarf is not harmful to the individual or the liberties of others. It holds religious and/or cultural significance for many veiled women, and denying them the *choice* to decide for themselves inhibits their basic civil liberties and individualism – the basic tenets of western culture. In France, although the government claimed secularism and gender equality were being threatened, there was no evidence to indicate that any harm was involved. Turkish authorities embrace secularism as part of their westernization agenda, and also associate the *hijab* with political Islam. The donning of the veil appears to be more of a political act associated with identity politics, rather than fundamentalist political ideology. In my case studies, I discussed why the headscarf is deemed threatening; now, I would like to briefly elaborate on the broader conflict between Islam and the West.

While conflict with Islam has existed since the colonial era, the world-changing events of 9/11 thrust Islam into the limelight. Not only were western countries faced with a new national security concern, but they were also now faced with a “foreign” culture with which they had little familiarity. As a result, patriotism sprung up throughout western societies, demonstrated by the display of country flags and unwavering support for the troops fighting the “war on terror.” However, along with patriotism, came steadfast nationalism and a sense of superiority about the western way of life. As Tebble notes, “particularly since 9/11 nationalist political movements and parties that address issues of identity and culture have grown in strength in many Western liberal democracies... it would take only another major geopolitical event to tip the balance of popular rather than fringe opinion still further in nationalism’s favor.”¹ Nationalism and a strong accompanying identity can overwhelm smaller groups and impose on their way of life.

A great deal of the apprehension towards Islam has its roots in colonialist attitudes. At the end of the nineteenth century, when Europe attempted to extend its power and hegemony into the Middle East, it was faced with non-western culture that it viewed as “barbaric.”

In the Middle East, the treatment of women provided Europeans with an excuse to declare the inferiority of Muslims and their religion, and also justification of Europe’s imperialist and colonialist policies and practices. Many popular and scholarly articles portrayed Muslim women as one of two extremes: as voluptuous objects of desire, surrounded by servants and slaves, or as abject and submissive victims at the mercy of tyrannical husbands and fathers...²

¹ Adam James Tebble, “Exclusion for Democracy,” *Political Theory* 34, no. 4 (2006): 464+466-467, accessed November 2, 2011, <http://www.jstor.org/stable/20452475>.

² Walther, *Women in Islam*, 7-8.

European culture, traditions and norms were glorified, while Islamic culture was labeled as uncivilized.

There are also elements of xenophobia and Islamophobia that have been prevalent since the rise of European imperialism, but that have been exacerbated following the terrorist attacks. In *Orientalism*, Edward Said presents his interpretation of Western attitudes towards Middle Eastern/Islamic cultures, or the Orient. He explains that a major component of European culture is that European identity is superior, and that there is a “hegemony of European ideas about the Orient... reiterating European superiority over Oriental backwardness.”³ While western culture is viewed as modern and progressive, Islamic culture is believed to be archaic and backwards. This perspective was evident in the review of France and Turkish policy-making. Furthermore, the lack of knowledge about Islam leads to negative assumptions and fear. Said states,

Islam is *rarely* studied, *rarely* researched, *rarely* known... [It] *has* been fundamentally misrepresented in the West – the real issue is whether indeed there can be a true representation of anything, or whether any and all representations, because they *are* representations, are embedded first in the language and then in the culture, institutions, and political ambience of the representer.⁴

As it is foreign and categorized as “other,” there is a lack of understanding about the culture and there is often a projection of a state or individual’s interpretation. According to Said’s theory, herein lies the root of xenophobia and Islamophobia. As Islamic culture is unfamiliar, there is a fear of what is strange and foreign, along with a fear of the spread of Islam. In today’s day and age, Islam is feared more so as a political ideology.

³ Edward Said, *Orientalism* (New York: Vintage Books, 1978), 7.

⁴ *Ibid.*, 300+272.

Having developed in the late 19th and early 20th centuries, the current Islamophobia arose out of geopolitics and migration that brought millions of Muslims to Europe. Matti Bunzl explains that while religion and race are aspects of Islamophobia, these are not essential parts of the debate.

What does stand at the heart of Islamophobic discourse is the question of civilization, the notion that Islam engenders a worldview that is fundamentally incompatible with and inferior to Western culture. As a result, Islamophobic claims are actually quite different from those of modern anti-Semitism. Whereas anti-Semites questioned Jews' fitness for inclusion in the national community, Islamophobes are not particularly worried whether Muslims can be good Germans, Italians, or Danes. Rather, they question whether Muslims can be good Europeans. Islamophobia, in other words, functions less in the interest of national purification than as a means of fortifying Europe.⁵

Islamophobia serves as an exclusionary tactic that singles out the "other" and seeks to protect what is "European." Interestingly enough, while Turkey has been desperately trying to be accepted by Europe, Islamophobia is evident in the disapproval of their membership by member-states. While the leaders of some countries have been supportive, others, belonging to a very vocal group, feel that "no issue is more troubling than Turkey's Muslim character, the country's long tradition of secularism notwithstanding."⁶ One such detractor, Valéry Giscard d'Estaing, the former president of France and head of the Convention on the Future of Europe, the body charged with drafting a European constitution, "has likened Turkey's possible entry into the European

⁵ Matti Bunzl, "Between anti-Semitism and Islamophobia: Some thoughts on the new Europe," *American Ethnologist* 32, no. 4 (2005): 502, accessed November 30, 2011, doi: 10.1525/ae.2005.32.4.499.

⁶ *Ibid.*, 505.

Union to the end of Europe.”⁷ The accession of a Muslim country is seen as highly threatening to the fabric of Europe.

Among others, the aforementioned attitudes contribute to the current state of affairs and the clash of civilizations. However, regardless of these perspectives, it is also a western norm that there is no justification for the abrogation of human rights when harm is not involved. As human beings, we must respect one another in both the public and private spheres. Philosopher Immanuel Kant speaks about respect for the person, or the respect that is morally and unconditionally required for all individuals because they are free rational beings that possess unconditional dignity. Dignity is independent of all other facts and has absolute and incomparable worth. As individuals are rational beings, there is a limit on how others may treat them;

In particular, they must never be treated merely as means, as things that we may use however we want in order to advance our interests, and they must always be treated as the supremely valuable beings that they are... To respect persons is thus to regard them as absolutely, unconditionally, and incomparably valuable, to value them in themselves and not just in comparison to others or insofar as they are valuable to someone or could be useful as a means for furthering some purpose, and to acknowledge in a practical way that their dignity imposes absolute constraints on our treatment of them.⁸

It is essential to respect people and their free will, especially when exercising their fundamental rights does not cause harm to themselves or others.

In order to have a truly multicultural world, we must respect the identities and civil liberties of various groups; establishing an overwhelming national identity or abrogating human rights is not acceptable. While there is a need to balance diversity and

⁷ Ibid.

⁸ Robin S. Dillon, "Respect," *The Stanford Encyclopedia of Philosophy* (2010), ed. Edward N. Zalta, accessed November 30, 2011, <http://plato.stanford.edu/archives/fall2010/entries/respect>.

universal values, an individual's free will must not be compromised. In examining the relationship between individual rights and the power of the state, we unveil the challenges in achieving multiculturalism in secularist societies. Hopefully, with time and continued efforts, Europe can work towards achieving increasingly multiculturalist communities where ethnic identities can thrive and prosper.

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