

# *On Wearing the Niqab in France*

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France has banned the niqab (full face veil) in public; several women have demonstratively worn the niqab in public in order to provoke a legal response. Their express intent is to be fined, and then to take their case to the European Court to have the French law overturned. As a matter of human rights. They claim that it is their right to conceal their faces; they claim that this is a matter of religious freedom. I do not believe that it is a matter of religious freedom.

What I believe is this: that certain people with a political agenda are promoting the issue as a religious issue because they know that if they were to promote it as, for example, a fashion issue, they would have no case. Certain people with a political agenda are promoting it as a religious issue because they know that Western liberal democracies are particularly sensitive on the issue of religious freedom. Certain people with a political agenda are promoting it as a religious issue because they know that Western liberal democracies are prepared to bend over backwards to avoid seeming to condone any form of religious persecution. Certain people with a political agenda are promoting it as a religious issue because they know that Western liberal democracies are particularly vulnerable to the charge of religious bigotry, because of the peculiar history of wars of religious persecution in Europe, from the Middle Ages right up to the 1990s (if you include the former Yugoslavia).

The people who promote this as a religious issue in Western liberal democracies would not presume to try to promote the wearing of European-style clothing for women in, for example, Iran or Saudi Arabia or Waziristan--on reciprocal grounds of human rights or freedom of expression. And that shows that those who try to promote the wearing of the niqab in France as a religious right are hypocrites. Let them try their case for religious freedom of expression in Iran or Waziristan, and they will see what a luxury it is that they have access to a secular court system in Europe!

There may be some who will argue that the wearing of the niqab in France is a sign of religious affiliation appropriate to Muslims who are living in a predominantly non-Muslim country; they may feel themselves to be living in a kind of diaspora and they may fear loss of cultural identity if they are not allowed to show their religious affiliation openly. And the wearing of the niqab might be felt by some to fulfil that purpose.

Let it be said however that there is nothing in the Koran which says that a woman must be covered from crown to toe in public, and there are millions of Muslim women in France who wear clothing similar to what many non-Muslim women wear in France; that is, with their faces uncovered. There are many other ways to show religious affiliation than by covering the face. Look at any Hasidic Jew in Zurich, for example, and you will see what I mean. It is quite common to see Turkish women in Germany, for example, wearing head scarves, but with their faces uncovered.

Society has a general and compelling reason to be able to identify people. This general need in the interest of the common weal overrides any putative claim to have a right to cover one's face (on religious grounds). In Western Europe, there are elaborate schemes for distributing benefits, privileges, services, and entitlements, to health, education, welfare, access to the court system, and so on. These benefits, privileges, services, and entitlements are invariably bound to specific persons, and, more importantly, to persons allowed to be here (by virtue of birth or immigration or residence permit, for example). It is therefore necessary that these persons be identifiable on demand. That is why driver's licenses, credit cards, university student cards, public transport passes, and myriad other ID cards, have names and photographs on them--to identify the bearer as

having an entitlement or a qualification to receive some benefit, privilege, or service. It goes without saying that merely presenting an ID card, while covering the face, is not sufficient to verify identity and prevent fraud.

What if a person does not wish to take advantage of any of these privileges, benefits, services or entitlements? And therefore should have no need to identify herself by revealing her face in public? My answer is: bingo! you just put your finger on the real issue, which is not the wearing of the niqab. The real issue is social integration. If certain persons do not wish to take advantage of any of these privileges, benefits, services, or entitlements, do not wish to participate in any of the activities commonly practised by the rest of the (French) community--such as driving cars or riding on public transport or checking books out of the library or engaging in adult education at the local technical college or having a bank account, etc. etc. etc.--, then why are they living in France? They should go live in Waziristan, where women don't drive cars--so they'll never be put in the awkward position of having to identify themselves to a traffic officer. Where women don't go to university, so they'll never be put in the awkward position of having to identify themselves to a registrar. Where women are analphabetic, so they'll never be put in the awkward position of having to identify themselves to a librarian. Where there is no state-run social benefit system, so they'll never be put in the awkward position of having to identify themselves to a dole officer. Where nearly everyone else is Muslim, so they won't be diasporic anymore, so they won't need to wear 'flags' to sustain and fortify their Muslimness against the *Dar'al Harb* [Arabic word for countries not under Islamic rule, the "House of Strife"].

Now you might think that I am against foreigners. Far from it. I am myself a foreigner. I no longer possess the nationality of my country of birth, and I no longer live in the country of my assumed nationality. (I happen to live in Switzerland.) Everywhere I go, I am a foreigner. I am reminded of it every time I open my mouth; I speak the local lingo with such an accent that even I hear it. I am also not a Christian, though I live in a predominantly Christian nation. But I am the kind of foreigner host countries like, for I am well-integrated. I follow the local rules and customs, I pay my taxes, I celebrate local festivals (as well as some of my own), I mix with the locals, and I do not taunt them about their own weaknesses and vulnerabilities. And although I do not go to church, at least I don't threaten them with law suits over articles of clothing. Still, I have not lost my cultural identity; I am not a homogenized, tepid, mixture of every and no community. I am--this is exactly the right term--a resident alien, with my own identity as such. And anyone who takes the trouble to get to know me will come to know that about me too, without my having to 'flag' it in public in a way that openly flouts and offends local customs.

Of course, not all Muslims in France are foreigners. Some of them are French, born and raised there. And that is the real issue: social integration for diverse French people, not just for foreigners. It is hard work, the on-going legacy of the French Revolution. France is a secular nation; this is non-negotiable. That does not mean that you may not have a religion; but, if you try to force the French to politicize your having a religion--expect resistance!

Rights are inalienable, but not inviolable. "Inalienable" means that no one, including the state, may take the right away; indeed, the person himself cannot abjure it. Rights are not inviolable, however. They can be 'trumped' by other people's rights, or for compelling social reasons. For example, the right to freedom of speech does not mean that one has a right to shout "fire!" in a crowded theater, when there is no fire. Other people have a compelling interest in not being caught up in a panic, or incited to panic by a prankster. Similarly, one man's right to freedom of speech is limited by another man's right not to be slandered. Analogously, a right to freedom of religion does not include a right to compulsory conversion or to kill people in the name of religion. The right to freedom of religion does not sanction any and all expressions of any and all religions; there are limits.

The case of covering the face in public, even if it could be considered an issue broadly falling under the rubric of freedom of religion, nonetheless comes into conflict with some compelling social interests.

Society has a compelling reason to be able to identify people. The police and other law enforcement officials rightly have the authority to require of anyone that he identify himself (or herself) on demand, and not necessarily because the person may be suspected of a crime. A person may at any time become a witness to a crime, and we, society at large, have an entitlement that witnesses come forward and assist the law in criminal investigations. The police may rightly demand of a witness that he identify himself (or herself), in order that he (or she) may be summoned to give testimony later. It goes without saying that the court must know that it is dealing with one and the same person. If the policeman at the crime scene cannot look into the face of a witness, we have done the victim a greater injustice, than that done to the woman required to drop the veil.

In some other countries, a woman's testimony counts for less than that of a donkey. And now I ask you: what is more important? That a woman's face be covered and her testimony be counted worthless? Or that her testimony be the equal of any man's, and her face be equally visible? If the former, then why live in France? No one is forcing you to stay there.

All it takes is one bank robber wearing a burka for the case requiring visibility of the face in public to be irrefutable. People must be identifiable, and the face is essential to identifiability.

Of course, there will be exceptions, and they will be readily acknowledged by any sensible person. A woman in mourning customarily wears a translucent black veil. The wearing of motorcycle helmets while piloting such a vehicle. Wearing protective clothing at sporting events (fencing). Firefighters rushing into a burning building, for example, are assumed to be allowed to wear protective clothing, including masks which cover their faces. Doctors in a sterile environment are presumed to be allowed to cover their faces, so as not to spread infection to a patient on the operating table. Laboratory technicians working with toxic or infectious materials are assumed to be allowed to wear protective clothing, including face masks. People charged with cleaning up radioactive waste... A carrier of an infectious air-borne disease, TB for example, who must appear in public might also be allowed to wear a protective mask--for the protection of others, of course. An actor (think of the elaborate masks worn by aliens in sci-fi shows). These cases need not trouble us.

In principle, the case of women who insist on wearing the niqab in public in France need not trouble us either. They should either concede that the need to be identifiable is overriding and show their faces, or they should not go out in public. If a European woman should go to Iran or Waziristan, with a lot of face, neck, cleavage, belly, leg, and ankle showing--nothing shocking in Munich, Paris, or Stockholm--she should jolly well expect to be 'put right' by the 'morality police.' Adapt or don't go there; it's that simple, and it's courteous to the local sensibilities. Surely there are other ways of showing religious affiliation in France than the niqab, ways which do not conflict with any overriding public concerns and which do not offend local (non-Muslim) sensibilities.

Look at how women dress in Indonesia, the most populous Muslim country in the world.

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***Postscript***, summer 2014: the European Court at Strassbourg upholds the French ban.