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Pulling Back the Veil: The Hijab Ban and the Evolution of French Nationalism

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CLAREMONT MCKENNA COLLEGE

**PULLING BACK THE VEIL: THE HIJAB BAN AND THE EVOLUTION OF
FRENCH NATIONALISM**

SUBMITTED TO

PROFESSOR EDWARD HALEY

AND

DEAN GREGORY HESS

BY

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FOR

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Table of Contents

Acknowledgements.....	4
Introduction	5
Chapter One: The Hijab Ban and the Stasi Commission.....	12
Chapter Two: French Political and Media Reactions	25
Conclusion	36
Works Cited	44

Acknowledgments

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Introduction

In 2004, a French law went into effect banning girls in state sponsored schools from wearing the hijab, a Muslim head covering. While the law also banned the Jewish kippa and large cross necklaces from being worn in public schools, the hijab took center stage in what became a worldwide media frenzy. Headlines from around the world including San Francisco¹, London², Melbourne³ and Chennai⁴ reported on this law and the public outcry that followed. This law along with the ban on face veils commonly called burqas or niqabs, which went into effect in April 2011 ignited internal tensions in France and showed deep divides within the French populace. Not only did these controversial laws cause a media frenzy, they also revealed a country that is in danger of betraying its historical revolutionary values of liberty, fraternity and equality.

What exactly is the hijab and why did it ignite such tension and controversy not only in France but also across the globe? The hijab is a form of female Muslim dress. It is commonly called a headscarf and in France is known as a foulard. It should not be confused with the burqa or niqab which are forms of Muslim dress that covers a woman's entire body except for her eyes. Both are frequently associated with terrorism, Islamic fundamentalism and the oppression of women in the Middle East. While the Qur'an does not specifically state that women must veil, there are several verses that many interpret as evidence for veiling being required of pious Muslim women. However, none of the

¹ Debra J. Saunders, "Godless France," *The San Francisco Chronicle*, January 11, 2003, D4

² Hannah Godfrey, "Schools' Bid for Headscarf Ban Widens French Divide: Crackdown Exposes the Fissures between State and Religion," *The Observer*, June 15, 2003, 22

³ "Where the Law Should Fear to Tread," *The Age*, December 19, 2003, 8

⁴ Vaiju Naravane, "Scarf: Show Flexibility, France Told," *The Hindu*, December 25, 2003.

verses specifically say that women must veil but state that men and women must dress modestly. Several of these verses only apply to the women who were the Prophet Mohammad's wives.⁵ How then has this become a worldwide symbol of the oppression of Muslim women?

One way to determine whether France is indeed betraying its revolutionary values is to take a closer look at French nationalism. According to nationalist theorist Liah Greenfeld, France has a hybrid form of nationalism, a mix of collectivist and civic nationalism.⁶ Greenfeld writes, "Collectivistic nationalisms tend to be authoritarian and imply a fundamental inequality between a small group of self-appointed interpreters of the will of the nation-the leaders-and the masses, who have to adapt to the elite's interpretations. Collectivistic nationalism thus favor the political culture of populist democracy or socialism, and as such furnish the ideological bases of modern tyrannies."⁷ Civic nationalism is based on the individual rights and freedoms of the citizens, who are all treated as equals.⁸ It is clear that these two forms of nationalism are quite contradictory and thus lead to confusions in countries like France that tend to espouse both ideas, "The civic criteria of national membership acknowledge the freedom of the individual members, which the collectivistic definition of the nation denies. Collectivistic and civic nationalism is therefore an ambivalent, problematic type, necessarily plagued

⁵ Anne Sofie Roald, *Women in Islam: The Western Experience*, (New York: Routledge, 2001), 255.

⁶ "Five Roads to Modernity," The Nationalism Project, <http://www.nationalismproject.org/what/greenfeld.htm>

⁷ "Five Roads to Modernity"

⁸ "Five Roads to Modernity"

by internal contradictions.”⁹ This begins to explain why the law banning the hijab in public schools in France has created such a media firestorm and seemingly contradict the French values of liberty, equality and fraternity.

The law that banned the hijab and several laws that came about in the years following the hijab ban illustrate that France is moving away from its civic nationalism and slowly adopting an ethnic nationalism. By passing a law that outwardly calls a religious form of dress unacceptable in public schools, the French are insinuating that this dress has no place in their society. This paper will examine the law banning the hijab and the reactions that ensued. The first chapter will provide a detailed review of the Stasi commission, which was charged with investigating controversy over the hijab in public schools and provide an overview of the law concerning conspicuous religious items in public schools. Actual texts of the law will be examined and explained along with possible and planned interpretations. Additionally, the fines and punishments associated with this law will be assessed. The second chapter will focus on the politics and public reaction associated with the law and, in particular, the rightwing French political party the National Front and its role in the ban will be looked at. French public reaction will also be examined. This will be especially interesting because of the post 9/11 climate in which these laws were introduced. Finally, the conclusion will examine the significance of France’s departure from its revolutionary values, how this ban will affect French nationalism and implications of the laws including crime, inequality, nativism and the possible growth of radical Islam in France.

⁹ “Five Roads to Modernity”

These values originated during the French Revolution. They represent the ideals the revolutionaries wanted their country to achieve. The phrase “*Liberté, égalité, fraternité*,” was the motto of the French Republic first spoken by Antoine-Francois Momoro.¹⁰ This motto was one of many during the period of the revolution but during the Third Republic, became institutionalized as the official motto of France.¹¹

Along with the three revolutionary values, there is the idea of *laïcité*, which literally translated means secularism. This idea of state sponsored secularism was a key part of the arguments supporting the ban of the hijab and those opposing its passage. *Laïcité* first appeared in France in 1905 when the Law of Separation between Church and State came into effect and read, “Article 1. The Republic ensures freedom of conscience. It guarantees the free exercise of religions. Article 2. It neither recognizes nor subsidizes any religion.”¹² In the constitutional revisions of 1905 the principle of *laïcité* became an unwritten virtual constitutional ideal and was mentioned in the 1946 Constitution.¹³ *Laïcité* has had a profound effect on the concept of secularism in France. While the United States has the separation of Church and State as part of its government structure, French *laïcité* is different and more deeply entrenched in the French political system, “Because secularism is a characteristic of the state, one can say that freedoms are better guaranteed if the state is secular. The state’s secular duty is an obligation to which a

¹⁰ Edward Latham, *Famous Sayings and their Authors: A Collection of Historical Sayings in English, French, German, Greek, Italian, and Latin* (Detroit: Gale Research Co., 1970), 147.

¹¹ “Liberty, Equality, Fraternity,” France in the United States, Embassy of France in Washington, <http://www.ambafrance-us.org/spip.php?article620>

¹² Cécile Laborde, *Critical Republicanism: The Hijab Controversy and Political Philosophy* (Oxford: Oxford University Press, 2008), 33.

¹³ Laborde, *Critical Republicanism*, 33.

subjective right does not correspond. It is, therefore, to be treated not as a civil right, but as a public freedom.”¹⁴

In regards to the headscarf ban in French public schools, there are two ways in which *laïcité* can be interpreted. The first is that the hijab is a symbol of fundamentalist and extremist Islam and the concept of state secularism necessitated this ban from public schools because they are seen as religious propaganda and advocated against tolerance and equality of the sexes.¹⁵ The second interpretation is that because of state secularism, only the state, not the students, are required to remain neutral on issues of religion and religious expression, it follows that the state banning the hijab because the state views it as oppressive towards women is not allowed because that requires the state to take a stance on Islam which would violate its neutrality.¹⁶ *Laïcité*, its place in the French state and its application are confusing and open to a variety of different interpretations. Therefore, it is easy to see why this concept played such a large role in the debates leading up to the hijab ban.

In any discussion concerning Muslims in France, it is important to look at the colonial history France has with North Africa. From 1830 when France first conquered Algeria and 1962 when the Algerian War ended, France had a very established presence in its colonies in Algeria and Morocco.¹⁷ French history in this region was at no point calm or peaceful. It was during France’s colonization in the region that the French view

¹⁴ Michael Troper, “French Secularism or Laïcité,” 21 *Cardozo Law Review*, 1267, 1268 (1999-2000)

¹⁵ Troper, “French Secularism,” 1279

¹⁶ Troper, “French Secularism,” 1279

¹⁷ Joan Scott, *The Politics of the Veil* (Princeton: Princeton University Press, 2007), 46.

of Muslims was established. France viewed Algerians in a hierarchal sense, “In the hierarchy of social distinction, Jews ranked below Christian Europeans and ‘native’ French, but above the Muslims (Arab and Berber) who were the real subject peoples, those with no vote or right to representation.”¹⁸ Muslims were thought to be somehow less human and more barbaric than their European Christian counterparts. French statesmen François Guizot, in 1846, likened the Arabs to natives that were found when India and the Americas were colonized, “one is faced with ‘people who are half savages,’ accustomed to ‘devastation’ and ‘murder,’ and therefore ‘one is obliged to employ more violent and sometimes harsher methods than those who command the soldiers are naturally incline to use.’”¹⁹

When these “savages” emigrated from the French North African colonies to France, they did not find a very welcoming environment. In 1914, when Algerians were allowed to legally emigrate to France (Moroccans and Tunisians were not given this right and began arriving illegally), large numbers of poor peasant men began pouring into France, “The presence of North Africans in the cities of the metropole, and the conditions under which they lived and worked, had the effect of exacerbating differences.”²⁰ The conditions in which these newly arrived immigrants lived was absolutely horrid, “The men lived in cramped housing, clustered in neighborhoods that quickly were associated with high levels of prostitution, homosexuality, and crime.”²¹ They quickly became associated with criminals, the French daily newspaper *Le Matin* wrote in 1923, “The

¹⁸ Scott, *Politics of the Veil*, 50.

¹⁹ Scott, *Politics of the Veil*, 49.

²⁰ Scott, *Politics of the Veil*, 51-52.

²¹ Scott, *Politics of the Veil*, 52.

crimes and offences committed by Arabs are increasing...almost all the rabble which infests us is foreign.”²² It is almost eerie how *Le Matin*'s commentary is so similar to the current rhetoric of the National Front. With such a difficult past, the present day relations between Muslim immigrants and French society is not at all surprising and this relationship helps provide context for the ban of the hijab and similar laws.

²² Scott, *Politics of the Veil*, 53.

Chapter One

Not Just a Post 9/11 Issue

The turmoil surrounding the Muslim headscarf or hijab in French public schools began almost fifteen years before the current legislation regarding religious symbols in schools was brought to the table. On October 3, 1989 the *affaires des foulards* began. It all started at a middle school in the town of Creil, a suburb located just outside of Paris. Three girls were expelled for refusing to remove their hijabs at school.¹ The particular school these girls attended was located in a ZEP or priority educational zone; a term designated for high poverty areas that were ethnically diverse and tended to have a high turnover among the teaching staff.² The expulsion prompted widespread debate throughout France about the legality of wearing hijabs in French public schools, which are supposed to be far removed from all things religious. The Creil incident provoked huge coverage in the French press and spoke to the underlying tensions between the French and an increasingly large immigrant population, “On the face of it, the hubbub generated by the press seems exaggerated, but in fact it exposed the crisis the nation was confronting: how to reconcile an increasingly multicultural population with a universalism that precluded the recognition of cultural and social differences.”³ The purpose of this chapter is to explore why a law was implemented in France banning the wearing of the hijab and other conspicuous religious items in public schools. In order to

¹ Joan Scott, *The Politics of the Veil* (Princeton: Princeton University Press, 2007), 30.

² Scott, *The Politics of the Veil*, 30.

³ Scott, *The Politics of the Veil*, 30-31.

do this, incidents involving the hijab in public schools from the late 1980s through the mid 1990s will be examined. Then the creation and composition of the Stasi Commission will be explained and their final report will be evaluated. Finally, the law created in response to the Stasi Commission's report and its implementation will be inspected. While individual party politics and public opinion played a role in the Stasi Commission, its report and the law that came as a result, they will not be examined in this chapter; instead they will be the focus of Chapter 2 which covers the politics and public reaction surround the hijab ban.

As a result of the incident in Creil the minister of Education requested a legal analysis of whether school administrators could force students to remove religious symbols under the concept of *laïcité*. This fell into the purview of the *Conseil d'Etat* or Council of the State, which is the highest administrative court in France and is tasked with dealing with the legality of actions taken by public bodies⁴. The council ruled on the issue at the end of November 1989. "On November 27, the council ruled that the wearing of signs of religious affiliation by students in public schools was not necessarily incompatible with the principle of *laïcité*, as long as these signs were not ostentatious or polemical, and didn't constitute "acts of pressure, provocation, proselytism or propaganda" that interfered with the liberties of other students. Students could not be refused admission to school for simply wearing headscarves; this would be a violation of the right to individual conscience, which included religious conviction."⁵ While the Council ruled in favor of the three girls who had been expelled and upheld their right to

⁴ Scott, *The Politics of the Veil*, 32.

⁵ Scott, *The Politics of the Veil*, 32.

wear their headscarves in class, it would not be the last time this issue would be challenged in the media, French politics and in court.

Throughout the early to mid 1990s several challenges were made to the 1989 *Conseil d'Etat* ruling. By 1994, forty-nine legal disputes involving girls wearing headscarves reached the council and forty-one of those disputes were decided, in favor of the schoolgirl. When the ruling favored the school it normally involved a girl who was constantly absent or involved in proselytism.⁶ Despite all the legal cases, major attention was not brought to the issue until 2003 with the creation of the Stasi Commission. The commission was created despite the fact that teacher complaints about hijabs in their classrooms had dropped from 300 in 1994 to 150 in 2003.⁷

The Stasi Commission

Besides the events discussed above there were no major developments surrounding the headscarf controversy until the creation of the Stasi Commission by French President Jacques Chirac on July 3, 2003. Bernard Stasi headed the commission and although commonly referred to as the Stasi Commission, the full name was, The Commission to Reflect on the Application of the Principle of Secularism in the Republic.⁸ Stasi, at the time, was the ombudsman for France but had served in many different political roles including minister for overseas departments and territories (1973-

⁶ John R. Bowen, *Why the French Don't Like Headscarves: Islam, the State, and Public Space* (Princeton, Princeton University Press, 2007), 87.

⁷ Pierre Tevanian, *Le Voile Médiatique; Un Faux Débat; "L'affaire du Foulard Islamique"* (Paris: Raisons d'Agir, 2005), 23-24.

⁸ Bronwyn Winter, *Hijab and the Republic: Uncovering the French Headscarf Debate* (Syracuse: Syracuse University Press, 2008), 215

74), vice president of the National Assembly (1978-83) and a member of the European Parliament (1994-98).⁹ In total the commission had twenty members that included, “high-ranking academics, scholars specializing in the Muslim world and issues of race, immigration, and ‘integration’ in France, specialists on *laïcité*, members of the Haut Conseil à l’Intégration, intellectuals, political figures, a management consultant and a high school principal.”¹⁰ According to Bronwyn Winter, an associate professor of French studies at the University of Sydney, the purpose of the commission was, “not to debate the desirability of French secularism, as it was already firmly established in law and in the constitution, but to debate its application in the contemporary context.”¹¹

Over the course of the commission, members listened to submissions from approximately 140 individuals and organizations. One hundred of these submissions were made available to the public.¹² The submissions came from a wide spectrum of the French public and French organizations. Political submissions came from a variety of French political parties including the right-wing National Front as well as a number of trade unions.¹³ In the realm of religious submissions, Dalil Boubaker the pro-secular Rector of the Paris Mosque and the president of the French Council for the Muslim Faith, conservative Catholic Archbishop Lustiger and representatives from the Protestant, Jewish, Greek Orthodox, Hindu, Buddhist, and Baha’i faiths all submitted their opinions to the commission.¹⁴ High school principles, women’s groups, antiracism organizations,

⁹ Winter, *Hijab and the Republic*, 216.

¹⁰ Winter, *Hijab and the Republic*, 216-217.

¹¹ Winter, *Hijab and the Republic*, 216.

¹² Winter, *Hijab and the Republic*, 218.

¹³ Winter, *Hijab and the Republic*, 218.

¹⁴ Winter, *Hijab and the Republic*, 218.

prison and hospital directors, company directors, academics, the editor-in-chief of *Le Monde Diplomatique* and prominent feminists all took part as well.¹⁵ One group noticeably missing from these submissions is adolescent Muslim girls, both those who wore hijab and those who did not. The very group whose actions the commission was charged with evaluating in relation to *laïcité* had their opinions and viewpoints completely excluded. How then could the commission expect to accurately investigate the task prescribed to them by the French president when they did not involve the group that their findings would most directly affect?

The Stasi Commission Report

On December 11, 2003 the Committee of Reflection on the Application of the Principle of Secularity in the Republic headed by Bernard Stasi sent President Jacques Chirac their final report. The report focuses on secularity in all aspects of life in the republic but for this paper I will only look at their findings in relation to public schools. According to the report, the commission interviewed students from several different high schools. Most of these schools were French schools located in other countries like Turkey, the Czech Republic and Austria. Of the two high schools located in France that the commission examined, both were located in the Seine-et-Marne region.¹⁶ This is a suburban area located to the east of Paris. While students at these high schools might have been Muslim girls who wear the hijab, there is no way of knowing since the report

¹⁵ Winter, *Hijab and the Republic*, 281.

¹⁶ Robert O'Brien, *The Stasi Report: The Report of the Committee of Reflection on the Application of the Principle of Secularity in the Republic* (Buffalo, William S. Hein & Co., Inc, 2005), 10.

never specifies if it spoke to girls wearing the hijab or asked them why they wear the hijab.

In a letter to Chirac at the beginning of the report, Bernard Stasi acknowledges that situations in the Middle East did play a role in the commission's findings and suggestions. "The international situation, and particularly the conflict of the Near East, contribute also to worsen tension and to provoke clashes in certain of our cities. In that context, it is natural that many of our countrymen call for the restoration of national control, particularly in the schools. Taking account of these threats and considering the values of our Republic which require respect, we formulated the suggestions that figure in this report and that we present to you."¹⁷ This admission shows that the world post 9/11 does have an impact on French views regarding Islam. It also shows why after several years of a lull in regards to the hijab in schools that this issue was brought again to national attention in 2003 with the creation of the Stasi Commission.

A large part of the report is dedicated to reviewing the history of the 1905 *laïcité* law. In particular importance to the future law that banned hijabs in public schools is the mention of the importance of schools when it comes to *laïcité* in the republic. "This requirement initially applies to schools. The pupils must work in a calm climate to pursue their studies and ultimately to form independent judgment. The state must oppose their spirits being plagued by the violence and passions of society: without being a sterile chamber, the school cannot become an echo chamber for the passions of the world, under pain of failing in its educational mission."¹⁸ This clearly shows the importance both the

¹⁷ O'Brien, *The Stasi Report*, 12.

¹⁸ O'Brien, *The Stasi Report*, 17-18.

commission and the French state put on secularity in schools and helps explain the findings that the commission lays out at the end of the report.

When the report moves to discussing past incidences involving religious paraphernalia in schools, it begins with the 1989 incident in Creil and the subsequent ruling by the *Conseil d'Etat* where the incident was argued. During this time the council ruled that students were allowed to wear certain religious items as long as they did not violate four specific principles. “1. Coercive acts, provocations, proselytization, and propaganda are prohibited; 2. Acts which question the dignity, pluralism, or the liberty of pupils or any member of the education community, as well as any that compromise their peace of mind or safety, are rejected; 3. All disruption of educational activities, of the educational role of lessons and everything troubling order in the establishment or the function of normal service; 4. The necessary missions of public service in education and especially the content of the educational program cannot be affected by the behavior of students.”¹⁹ While the council did put certain restrictions on the wearing of religious items in schools, they still upheld the students' right to wear them. Yet despite these protections granted by the *Conseil d'Etat*, the highest institution of law in France, the commission was reexamining this issue again. The commission even explicitly says that they believe religious paraphernalia to be detrimental to students' learning environment, “In the schools, wearing an ostensibly religious symbol—a large cross, yarmulke, or veil—suffices to disrupt the tranquility of the studious life.”²⁰

¹⁹ O'Brien, *The Stasi Report*, 31.

²⁰ O'Brien, *The Stasi Report*, 39.

Among the reasons the commission gives that religious symbols are not appropriate in French public schools is the hijab represents the degradation of young women. The commission reported that: “Young women find themselves again victims of a resurgence of sexism which is produced by various pressures and by verbal, psychological, or physical violence. Young men force them to wear clothes that are concealing and asexual, to lower their eyes on seeing a man; with failure to conform, they are stigmatized as “whores.” Many associations are alarmed by the more and more frequent withdrawal of their female members who were born abroad, whose environment forbids them to engage in community life.”²¹ The report goes on to say that whether or not these girls wear the hijab on their own volition or because they are forced once they do so they are protected from taunting and are able to go out and be a part of the community.²² Finally the report talks about how these young women are also victims of violence, “Some young women are also victims of other forms of violence: sexual mutilation, polygamy, repudiation. The physical size of women does not always permit them to oppose this; on the basis of bilateral conventions, the law of the country of origin can apply to them, including clauses that are directly in conflict with equality between the sexes and with fundamental rights. Some marriages are forced in certain communities notably Turkish, North African, African, and Pakistani.”²³ These accusations made by the commission against immigrants from the Middle East and North Africa, particularly the males. Despite making these accusations, the commission provides no statistics or evidence for these claims. It is unfortunate that the wording of the report makes it seem

²¹ O’Brien, *The Stasi Report*, 44.

²² O’Brien, *The Stasi Report*, 44.

²³ O’Brien, *The Stasi Report*, 44.

that violence against women in France is a problem only among Muslim immigrants when it also occurs among non-immigrants in France.

The report also gives three different positions regarding the wearing of the veil that they encountered from their witnesses.

- For those who wear it, the veil carries different significances. It can be a personal choice, or on the other hand a constraint, particularly intolerable to the younger women. Wearing the veil to school is a recent phenomenon. Affirmed in the Muslim world in December 1979 with the emergence of radical politico-religious movements, it manifested itself in France only toward the end of the 1980s.
- For those who do not wear it, the significance of the Islamic veil is that it stigmatizes “the pubescent girl or the woman as solely responsible for masculine desire,” a vision that conflicts with the fundamental principle of equality between men and women.
- For the scholastic community at large, wearing the veil is too often the source of conflicts, of divisions, and even of suffering. The visible character of a religious symbol is resented by many as contrary to the mission of the school which should be a neutral space and a place of awakening of the critical spirit. It is also a blow against the principles and values which the school should develop, especially equality between men and women.²⁴

These positions on the veil are very much in line with the views the commission has espoused throughout the report. It views the veil, hijab, foulard or whichever term one prefers to use as something that is fundamentally at odds with the French schooling system.

Finally the report ends with its own suggestions to the French government on how to deal with the veil situation in public schools. According to the commission, “after having listened to both sides, concludes that today it is not a question of freedom of conscience but of public order.” The suggestions that the commission gives to the

²⁴ O’Brien, *The Stasi Report*, 53.

government reflects this viewpoint that there has been a shift in this issue from student's freedom to express themselves in school to a matter of preserving the mission of French schools to uphold *laïcité*. They put forward the following proposal,

...the commission proposes inserting the following clause in the text of the law concerning secularity: "Out of respect for freedom of conscience and for the proper character of private educational institutions, clothing and symbols demonstrating a religious or political preference are forbidden in the schools, colleges, and high schools. Any sanction is proportioned and applied after the pupil has been asked to conform to his or her obligations" This resolution should be inseparable from the following exposition of motives: "The forbidden garments and religious signs are ostentatious signs, such as big crosses, a veil, or a yarmulke. Not looked at as symbols showing a religious membership are discreet symbols, for example medals, small crosses, stars of David, hands of Fatima, or small Korans."²⁵

After their proposal for public schools, the commission discussed the situation in universities, hospitals, businesses, prisons etc. and decided that in these institutions religious freedom did not interrupt any sort of learning process or public order.

Overall the findings and suggestions of the commission are not all that surprising. There has been a shift in public perception of the veil since the first incident in 1989 and the commission's report reflects this change. The law that followed the report is almost exactly, word for word, the same as the commission's proposal.

The Law Itself

As a direct result of the findings of the Stasi Commission, on March 15, 2004 the *Loi n° 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le*

²⁵ O'Brien, *The Stasi Report*, 54-55.

port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics (Law 2004-228 of March 15, 2004 concerning as an application of the principle of the separation of church and state, the wearing of symbols or garb which shows religious affiliation in public primary and secondary schools) was signed into law by Jacques Chirac. The specifics of the political process and viewpoints behind this law as well as domestic public reaction will be explored in Chapter 2. In this chapter only the specifics of the law and its applications will be examined.

The law itself was not terribly long, consisting of four articles. The first article sums up the law quite succinctly. “In public elementary, middle and high schools, the wearing of signs or clothing which conspicuously manifest students’ religious affiliations is prohibited. Disciplinary procedures to implement this rule will be preceded by a discussion with the student.”²⁶ It is important to note that the law did proscribe that schools have a discussion with a student who they believed to be in violation of the law before taking any major disciplinary action. Another important aspect of the law is its explanation and definition of what constitutes “conspicuous.” “The clothing and religious signs prohibited are conspicuous signs such as a large cross, a veil, or a skullcap. Not regarded as signs indicating religious affiliation are discreet signs, which can be, for example, medallions, small crosses, stars of David, hands of Fatima, or small Korans.”²⁷ The way in which the law is worded makes its actual implementation seem very much up to individual school officials. Most school principals and their largest union, the SNPDEN (*Syndicat national des personnels de direction de l’éductiaon nationale*)

²⁶ Scott, *The Politics of the Veil*, 10.

²⁷ Scott, *The Politics of the Veil*, 10.

supported the law. They planned to take a “hard line” in its enforcements telling members that no student wearing religious dress was to enter a classroom or be able to wear religious dress during the prescribed “dialogue.” Another directive was to make sure the dialogue involved no one but the student and school officials in an attempt to keep “Muslim advocates” away from girls in school.²⁸ In an effort by some schools to avoid distinguishing between religious and secular head coverings, they banned both.²⁹

During the time period between the law being passed and its enforcement beginning (the first day of the 2004-2005 school year), some Muslim groups encouraged girls to defy the law and continue to dress how they wanted. One such group was the UOIF (*Union des Organisations Islamiques de France*) who issued a statement on June 29, 2004, “urging Muslim pupils to show up for school ‘in the clothes they have decided to wear’ and offered its own interpretation of the law.”³⁰ The Paris Mosque, on the other hand, actually encouraged Muslims to follow the new law.³¹

Events that took place just prior to the start of the school year in September 2004 changed the response from groups on all sides of the law’s impending implementation. In Iraq, two French reporters had been taking hostage and their kidnapers demanded France repeal the law in order for the hostages to be released.³² This incident kept Muslim groups from actively encouraging girls to defy the law because they did not want to be seen as in agreement or associated with the hostage takers in France. Therefore the actual implementation of the law was quite anti-climatic. According to official French

²⁸ Bowen, *Why the French Don’t Like Headscarves*, 144.

²⁹ Bowen, *Why the French Don’t Like Headscarves*, 144.

³⁰ Bowen, *Why the French Don’t Like Headscarves*, 144.

³¹ Bowen, *Why the French Don’t Like Headscarves*, 145.

³² Bowen, *Why the French Don’t Like Headscarves*, 145.

statistics during the 2004-2005 school year, forty-seven students were expelled from school because they refused to remove religious symbols, 550 cases were resolved via the dialogue process and ninety-six students left the public school system to enroll in private schools, distance learning or enroll in another country.³³ However there were some claims that this law caused several hundred girls not to attend school that year and they were left out of all official statistics.³⁴ Despite all the hype and controversy surrounding the law, the actual implementation and enforcement caused little disruption to the school year.

³³ Bowen, *Why the French Don't Like Headscarves*, 150-151.

³⁴ Bowen, *Why the French Don't Like Headscarves*, 151.

Chapter 2

The focus of the previous chapter was the Stasi Commission, its report and the law that was passed as a result of the commission. This chapter will examine the politics behind the law banning conspicuous religious garb to be worn in French public schools as well as the domestic response to the law. What political and social changes allowed for such a law to be passed? When incidents involving hijabs in public schools arose throughout the late 1980s and early 1990s the *Conseil d'Etat* almost never ruled against girls wearing the hijab. Yet in 2003 when this issue was brought to national prominence again the French legislature easily passed a law that banned hijabs in schools. In order to understand the political climate that made the law's passage possible it is important to start with the 2002 French election and the candidacy of the National Front's Jean-Marie Le Pen against incumbent Jacques Chirac. It is also essential to understand the reaction that happened domestically after the law was passed to see that France is moving away from a civic/collectivist form of nationalism to a hybrid civic/collectivist/ethnic nationalism.

The 2002 French Presidential Election: Le Pen Upsets Jospin

The first round of voting in the 2002 presidential election took place on April 21. Sixteen candidates were on the ballot for the first round but only three candidates were actually viable options to be the next head of the Fifth Republic. They were incumbent Jacques Chirac from the party *Rassemblement pour la République* (Rally for the Republic), Jean-Marie Le Pen from *Front National* (the National Front), and Lionel Jospin of *Parti*

Socialiste (Socialist Party). Most political analysts expected that Chirac and Jospin would move on to the second round of voting as they were from the two parties that traditionally won presidential elections. In fact most polls taken before voting began asked French citizens who they would vote for in the second round between Chirac and Jospin, assuming that Jospin was a shoe-in to face Chirac.¹ Then in the twelve published polls prior to the first round of voting Jospin averaged eighteen percent which put him an average of 5.4 points ahead of Le Pen and every pole had Jospin beating Le Pen by at least four points.² However, Le Pen edged Jospin out receiving 16.86% (vs. Jospin's 16.18%) of the vote to move on to the second round against Chirac, who received 19.88%, the rest of the vote went to the remaining thirteen candidates.³ France was absolutely shocked by the results. *Le Monde* wrote, "France is hurt, and many French people are humiliated."⁴ Leaders from throughout Europe also expressed dismay and disbelief that Le Pen would be moving on in the election. Sweden's Prime Minister Goran Persson told the BBC, "I hope that all democratic powers will unite against right-wing extremism and xenophobia."⁵

¹ Claire Durand, André Blais, Mylène Larochelle, "The Polls in the 2002 French Presidential Election – An Autopsy," *The Public Opinion Quarterly* 68 (2004): 602

² Durand, "The Polls in the 2002 French Presidential Election," *The Public Opinion Quarterly* 68 (2004): 603

³ Décision Déclaration Présidentielle Premier Tour 2002 du 24 Avril 2002, Conseil Constitutionnel, <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2002/declaration-presidentielle-premier-tour-2002/decision-declaration-presidentielle-premier-tour-2002-du-24-avril-2002.691.html>.

⁴ Durand, "The Polls in the 2002 French Presidential Election," *The Public Opinion Quarterly* 68 (2004): 602

⁵ "Le Pen Vote Shocks Europe," *BBC*, April 22, 2002, <http://news.bbc.co.uk/2/hi/europe/1942929.stm>.

When the second round of voting occurred on May 5, 2002 it was one of the largest landslides in French election history. Chirac won with an overwhelming 82.21% of the vote, which equaled about 20 million more votes than Le Pen received.⁶ On the surface it might seem odd that a candidate who was able to finish second in the first round of the election would lose by so much in the final round. However, a better understanding of Jean-Marie Le Pen and his right wing National Front party sheds light on his surprising showing in the election and the changing culture of French politics and French nationalism in the post 9/11 era. While the French voters sent a message by voting for Chirac in such great numbers, Le Pen's very presence in the second round of voting showed that there had been a shift in at least a portion of the population's views regarding immigrants and Muslims in their country. Le Pen had finished fourth in the first round of voting in the previous two presidential elections that took place in 1988 and 1995. In 1995 he received 15% of the vote in a field of nine.⁷ During the first round of the 1988 election he received 14.38% of the vote out of nine candidates.⁸ For the first time since

⁶ Décision Proclamation Présidentielle 2002 du 08 Mai 2002, Conseil Constitutionnel, <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2002/proclamation-presidentielle-2002/decision-proclamation-presidentielle-2002-du-08-mai-2002.693.html>.

⁷ Décision Déclaration Présidentielle Premier Tour 1995 du 26 Avril 1995, Conseil Constitutionnel, <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/1995/declaration-presidentielle-premier-tour-1995/decision-declaration-presidentielle-premier-tour-1995-du-26-avril-1995.10685.html>.

⁸ Décision Déclaration Présidentielle Premier Tour 1988 du 27 Avril 1988, Conseil Constitutionnel, <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/1988/declaration-presidentielle-premier-tour-1988/decision-declaration-presidentielle-premier-tour-1988-du-27-avril-1988.8608.html>.

1969 in a French presidential election there was no candidate from the left, instead the two candidates came from the center-right and the far right.⁹

Le Pen and the National Front: The Far Right Wing in France

Who exactly is Jean-Marie Le Pen and how did his National Front pull off an improbable second place finish in the first round of the election? Jean-Marie Le Pen founded the National Front in 1972. Known for its extreme nationalist and racist views the National Front is notorious for its views involving immigration, particularly Muslim immigrants from former French colonies in North Africa. From the very beginning of the party, immigration has been seen as the most important issue to the National Front. “In a press conference to mark the first anniversary of his party in September 1973, the FN [National Front] leader deemed France to be ‘at its limit in terms of immigration’ and warned of ‘much more serious racial tensions ahead’. He declared that ‘the French should come before others in France’, and that Algerian workers in France represented an army of ‘some fifty infantry divisions’ awaiting their order to mobilise.”¹⁰ The National Front, through its rhetoric, positioned itself as a party that believed immigrants were an unwanted part of French society and that the rights of those who are actually French must be protected above all others. They also felt that immigrants were the cause for the unemployment faced by French citizens. The National Front’s fifth national congress in 1978 had very strong words when it came to immigration and unemployment: “It called for the ‘defence of the West’ and identified the ‘principal cause of unemployment’ in ‘the

⁹ J.G. Shields, *The Extreme Right in France: From Pétain to Le Pen* (New York: Routledge, 2007), 282.

¹⁰ Shields, *The Extreme Right in France*, 185.

massive presence of foreign workers on our soil'. This constituted 'a danger of the security and health of our fellow country men, which, along with the drop in the national birth rate, could in time place at risk the very existence of our people'." ¹¹ Clearly there was going to be no reconciliation between immigrants and the National Front. They wanted France to be a country for the French and the French only.

Le Pen himself is one of the most polarizing and well-known figures in French politics. Jean-Marie Le Pen was born June 20, 1928 in the small coastal town of Trinidad-sur-Mer in Brittany. He was orphaned at the age of twelve when his father, a fisherman, died when his boat struck a mine. Le Pen was active in politics while a student and it was during the French war in Indochina, where he was serving as a second lieutenant in the 1st Foreign Parachute Battalion, that he became very active in right-wing politics.¹² After holding various political and party appointments throughout the 1950s and 60s, Le Pen founded the National Front party.¹³ Le Pen was the head of the party until 2011 when his daughter Marine Le Pen took his place.

Le Pen is a frequent commentator in the French media spouting his frequently controversial views. Le Pen has been fined on numerous occasions by the French government for his public remarks. One such event occurred when in an interview with *Le Monde* magazine in 2003, he warned the French about the day when Muslims will outnumber non-Muslims in France, "the day in France when we have 25 million Muslims, not 5 million...The French will lower their heads and walk the sidewalk with their eyes

¹¹ Shields, *The Extreme Right in France*, 186.

¹² "Jean-Marie Le Pen," <http://www.assemblee-nationale.fr/histoire/biographies/IVRepublique/le-pen-jean-marie-20061928.asp>

¹³ "Jean-Marie Le Pen," <http://www.assemblee-nationale.fr/histoire/biographies/IVRepublique/le-pen-jean-marie-20061928.asp>.

down. When they don't do it, they'll be asked, 'what are you doing looking at me _ are you looking for a fight?'"¹⁴ This tirade led a Paris court to fine Le Pen €10,000 which at the time was equal to about \$12,355.¹⁵ Another incident that put Le Pen in hot water occurred during the 2007 presidential election when on *France 2*, a television station, he had the following to say about Sarkozy's Hungarian origins, "If I had become Hungarian, though I was of French origins, it would not occur to me to run for office as president of Hungary."¹⁶ He then went on to say, "Being the head of state has a historical, spiritual dimension to it, it is not quite the same as being an ordinary politician. Mr. Sarkozy has said he is proud of his Hungarian origins, well I am proud of my French origins."¹⁷ This is just another example of Le Pen's anti-immigration mindset.

Chirac and the Foulard

While Chirac easily defeated Le Pen in the election, the very fact that Le Pen had made it to the second round alerted Chirac that the vocal right wing had gained political clout. Perhaps this contributed to the fact that Chirac brought the issue of the hijab back to the national spotlight by creating the Stasi Commission after over a decade of the *Conseil d'Etat* ruling that girls were allowed to wear their hijabs in school. In a 2003 public statement, Chirac spoke out against the veil, "Like it or not, wearing a veil is a

¹⁴ "Le Pen Convicted of Inciting Racial Hatred for Anti-Muslim remarks," *Associated Press Worldstream*, April 2, 2004.

¹⁵ "Le Pen Convicted"

¹⁶ "Certain Ideas of Europe," *The Economist*, April 12, 2007, http://www.economist.com/blogs/certainideasofeuropa/2007/04/le_pen_rides_to_sarkozys_rescu.

¹⁷ "Certain Ideas of Europe"

kind of aggression.”¹⁸ The newly reelected president knew that the tensions surrounding Arab immigrants, their religion and their very presence in France were risings and he had to do something to appease the right. Chirac was not alone in viewing the hijab as a national threat, “It is hard to imagine that a few schoolgirls wearing headscarves could bring down the nation or even produce fractures in its foundation...Not only the president of the republic and most members of the Stasi commission, but many politicians, journalists, and public commentators, too, waxed apocalyptic on the issue of the headscarf and the future of France.”¹⁹ Throughout the duration of the Stasi Commission and the legislative process that created and passed the secularity law for public schools, Chirac never wavered in his opinion that the hijab was a danger to the republic.

The French React

Throughout France, the reaction to the passage of the secularity law varied throughout the country. There were plenty of protests held around the country where Muslim women and their supporters took to the streets expressing their discontent with the law. In major French cities such as Paris, Lille and Marseille, Muslim women protested the hijab ban by shouting “*Ni père, ni mari, le foulard on l’a choisi*” (not our fathers, not our husbands, we choose the headscarf) and “*Ni dupes ni soumises*” (not forced nor downtrodden).²⁰ One unintended consequence was the reaction that came from the Sikh community. Sikh men are required, as part of their religion, to not cut their hair

¹⁸ Joan Scott, *The Politics of the Veil* (Princeton: Princeton University Press, 2007), 77.

¹⁹ Scott, *Politics of the Veil*, 100.

²⁰ Aref Abu-Rabia, “The Veil and Muslim Women in France: Religious and Political Aspects,” *Anthropology of the Middle East* 1 (2006): 100

and keep it covered with a turban. The new secularity law would require male Sikh students to remove their turbans while at school. While the Sikh community in France is very small, only about 6,000 French citizens identify as part of the religion, it did not stop them from expressing their discontent with ban. In January 2004, around 3,000 Sikh men marched from the *Place de la Republique* in Paris to show their displeasure.²¹

In addition to protests among different religious communities, there were many debates in the French media arguing both for and against this new law and they came from a wide variety of backgrounds. *Le Monde Diplomatique*, the English language version of the daily *Le Monde* newspaper published two articles, each arguing a different side of the headscarf debate. French community activist Pierre Tévanian argued against the ban in his article “Say No to Racial Discrimination.” Tévanian takes issue with the way the media is portraying those who are against the ban. He objects to the media only showing hijab wearing women and religious leaders as those who object to the new law.²² A number of other organizations also are against this new law banning religious objects in schools, including the Human Rights League, The Teachers’ League, the Movement against Racism and for Friendship between Peoples, and the main parent-teacher associations in France, the Unitary Union Federation and the Federation of Parents’ Committees.²³ Tévanian also points out that all previous laws involving *laïcité* and secularity in French schools were meant to apply to educators, those who worked in the schools, not the pupils. Another of Tévanian’s arguments is a common one among the

²¹ Hugh Schofield, “Sikhs Protest Against French Ban,” *BBC*, January 24, 2004, <http://news.bbc.co.uk/2/hi/europe/3448239.stm>

²² Pierre Tévanian, “Say No to Racial Discrimination,” *Le Monde Diplomatique*, February 2004, <http://mondediplo.com/2004/02/08scapegoats>.

²³ Pierre Tévanian, “Say No to Racial Discrimination.”

law's opponents that this law would end up harming more young girls by ruining their chance at an education and would actually help networks of religious fundamentalists, "If fundamentalist groups are really organising some of the girls, the groups are not directly affected by the law - the girls will bear the brunt of it, leaving the men untouched. In fact - and worse - fundamentalists will gain from the law, since girl pupils barred from school will come under their exclusive influence. Religious groups will be able to exert even greater control, setting up Koranic schools and private tuition networks. Any expulsions will bolster their claims that Islam is the only true community and that the French republic rejects Muslims."²⁴ Tévanian concludes that instead of banning the hijab and other religious objects from the classroom, France should focus on real issues in the country such as social inequality, unemployment, racial discrimination and teacher shortages in schools.

Arguing for the new secularity law was Henri Peña-Ruiz, a lecturer at the *Institut d'Études Politiques* and a member of the Stasi Commission. While Tévanian focused his argument by looking at whether or not the rights of the girls wearing the hijabs have been violated, Peña-Ruiz focuses on the need to keep France a completely secular state. He argues the Stasi Commission showed the seriousness of the problems caused by hijabs and other religious items being worn in schools because some of those that testified in front of the commission did so privately because they felt that they were somehow in

²⁴ Pierre Tévanian, "Say No to Racial Discrimination."

danger for speaking out.²⁵ A law enforcing secularity in schools would thus allow all students and teachers to feel safe in their schooling environment.

Is it acceptable that, in "problem" suburbs, women are insulted and even attacked because they refuse to wear the hijab? Or that teachers are rejected because of their gender or what they teach (species in biology or the genocide of the Jews in history)? Or that the legitimate right to eat according to cultural custom can shift slowly into claims for single-community tables in school canteens? This is no time for naivety. Some who support the wearing of religious signs, especially in school, are sincere, although ill informed about the requirements of schools. Others belong to organised groups that combine skillful rhetoric about freedom and tolerance in domains where they as yet have no power with threats backed by violence in districts where they hold sway.²⁶

In the mind of Peña-Ruiz, troubling a small minority to remove their hijabs in class provides far more benefits to the community and country as a whole. This law would restore secularity to France and help it to become the secular state it was always intended to be.

Conclusion

The law concerning secularity in public schools was an incredibly controversial move by the French government. During the time of the Stasi commission and during the legislative process that ended up with the law's passing, one could probably ask fifty different people from completely different cities and backgrounds and hear a multitude of different arguments both for and against the law. Despite the controversy surrounding it, the law passed with overwhelming majorities in both the National Assembly and the Senate. It seems that most French men and women regarded the threat of outsiders,

²⁵ Henri Peña-Ruiz, "Say Yes to a Secular France," *Le Monde Diplomatique*, February 2004, <http://mondediplo.com/2004/02/09secularism>.

²⁶ Henri Peña-Ruiz, "Say Yes to a Secular France."

particularly Muslims, to the French way of life as extremely dangerous. Something had to be done to preserve the Frenchness of France. The successes of the political right during the 2002 presidential election created the environment for this law to be passed despite all protests and objections.

Conclusion

The hijab ban in French public schools, which was the main component of the law banning conspicuous religious items in public schools, was rooted in both the histories of French colonialism in North Africa as well as the shift to the right among French voters. By examining the Stasi Commission, the secularity law and the politics surrounding the law, several main conclusions can be made and will be discussed in this section. The first is that the rise of the political right and the increasing popularity of the National Front illustrate that immigrants, particularly Muslim immigrants, are often feared and viewed as a direct threat to the French way of life. Next is that the French government is addressing this fear by making legislation that directly affects Muslim girls and women, while providing ammunition for radical clerics to gain footing in French suburbs that are full of Muslims because they feel so discriminated against by the French and are susceptible to extremist views. Finally all of these laws, politics and rhetoric demonstrate that France is moving away from a civic form of nationalism toward one that is a hybrid between civic and ethnic nationalism. No longer can one subscribe to the ideas and goals of liberty, fraternity and equality to be French, now they must also be ethnically French to be treated equally and with respect in the French state.

As detailed in the previous chapter France and the world were shocked when Jean-Marie Le Pen edged out Lionel Jospin to take second in the first round of the election and move on to face Chirac in the second and final round of voting. Despite having run for president numerous times, Le Pen had never been considered by the media or the French political elite to be a viable candidate. The very ability of Le Pen to move on in the election signified that things were changing in France. More and more

people were identifying with right wing politics. This created the perfect environment for Chirac to convene the Stasi Commission and pass the law that eventually banned hijabs and other religious symbols from public schools. However, the passage of this law was not an isolated event or a singular attempt to restore *laïcité* to the republic. Instead it was a part of a larger set of events that demonstrated the fear of the French government and people regarding Muslims in their country especially after the events of 9/11.

The European Commission against Racism and Intolerance (ECRI) regularly publishes reports on various European Union members and measures the amount of racism in the country, and the government's response then they provide suggestions and guidelines for reducing incidents of racism. In the fourth such report done in France, published in 2010, the ECRI found several improvements from 2005 but also found many areas in which France was lacking. One of these areas was employment. The ECRI found that job applicants with names that suggested they were of North African, Sub-Saharan African and/or Muslim origin had a significantly harder time getting interviews from prospective employers, "ECRI expresses its concern at a number of reports and discrimination tests showing that the problem of discrimination on grounds of origin in the area of employment, particularly access to employments, remains significant and affects inter alia persons perceived as being of immigrant, North African or sub-Saharan African origin or of the Muslim religion. Some cases of racial discrimination in access to employment have been sanctioned by the courts, although the anti-racism NGOs consider that the penalties are not always sufficiently dissuasive, particularly where large

corporations are concerned.”¹ The problem of discrimination with employment was backed up by a study done by Stanford professor David Laitin, University of California San Diego professor Claire Adida and Marie-Anne Valfort a professor at Paris I Panthéon Sorbonne University. In their study, they created three fake CVs, all with equal amounts of education and work experience, that they would send to different recruiting agencies and companies that were hiring for secretarial positions. The three women they created were Marie Diouf (Christian first name/Senegalese last name) who had worked for *Secours Catholique*, Khadija Diouf (Muslim first name/Senegalese last name) who had previously worked at *Secours Islamique* and Aurélie Ménard (typical French name with no religious connotation) who had worked for secular firms. They found that that when they sent Aurélie’s CV out with either Marie or Khadija’s that Aurélie had a similar rate of positive response 25% and 27% respectively.² While Marie had a 21% positive response rate, Khadija only received positive responses from employers 8% of the time.³ This shows clear evidence that the ERCI findings were true.

Access to equal and suitable housing is another area in which the ECRI found issues in France. In the third report published in 2005, the ECRI recommended that authorities combat discrimination based on race in the housing sector, however in 2010 they found that the situation was nearly unchanged. The situation was particularly troubling when it came to housing applicants from North or Sub-Saharan Africa,

¹ European Commission Against Racism and Intolerance, *ECRI Report on France (fourth monitoring cycle)*, (Strasbourg, France: CRI, 2010), 21.

² Claire Adida, David Laitin, and Marie-Anne Valfort. "Identifying Barriers to Muslim Integration in France." Proceedings of the National Academy of Sciences. polisci2.ucsd.edu/cadida/Site/Publications_files/ALVPNASPublication.pdf.

³“Identifying Barriers.”

“Concerning private housing, for example, a testing operation conducted by the HALDE [High Authority for the Struggle Against Discrimination and for Equality] in 2006 in three regions showed that applicants of North African or Black African origin were nine times less likely to obtain the apartment being offered than the benchmark applicants.”⁴ There seems to be a pattern of discrimination throughout France in several different sectors of society and there seems to be little that the French authorities are doing to change these issues.

The ERCI also found that despite no major incidents in public schools when the secularity law was passed, there have been many instances where the law’s application has been mistaken and Muslim women wearing a hijab outside of public elementary and secondary schools have been subjected to discrimination. Examples of this include women being asked to remove their headscarves by their employers, both in the public and private sector and women who wear a headscarf being asked to remove it before they can drop their children off at a public school.⁵ The secularity law does not apply in any of these circumstances as the law only applies to students in public schools. Thus the ECRI made a recommendation to French authorities regarding these issues, “ECRI recommends in particular that the French authorities carry out an information and awareness-raising campaign vis-à-vis public service employees and the majority population so as to prevent unlawful, discriminatory requests that Muslim women wearing the headscarf either remove it or refrain from entering a public place.”⁶ Yet, in the same year this report was published, a new law was passed in France banning women from wearing the niqab (full

⁴ *ECRI Report on France*, 24.

⁵ *ECRI Report on France*, 30.

⁶ *ECRI Report on France*, 31.

face veil) in all public spaces. This new law shows that there is no initiative in France to stop discrimination against Muslims and Muslim women.

In July and September 2010, the French National Assembly and Senate passed a bill outlawing clothing that covers a person's face in any public space.⁷ While the law did not specify any particular garments in the text, two of its biggest supporters implied that the law referred to particular forms of Muslim dress. French Justice Minister Michèle Alliot-Marie, the presenter of the bill, said these Muslim garments "amounts to being cut off from society and rejecting the very spirit of the French republic that is founded on a desire to live together."⁸ The president of France, Nicolas Sarkozy made his views on the burqa and niqab quite clear when he said, "the burqa is not welcome in France because it is contrary to our values and contrary to the ideals we have of a woman's dignity."⁹ A majority of French citizens and politicians seemed to agree with the president and justice minister as the law easily passed both legislative houses and a poll done by the Pew Research Center found that eighty-two percent of French voters favored the ban.¹⁰ Yet just how many people will this law actually affect? In 2009 the Ministry of the Interior conducted a study that estimated that only 1900 women wore either the burqa or the niqab and 270 of these women lived in French territories overseas.¹¹ In addition to the small percentage of the population that actual wear these garments, most aren't recent immigrants, instead two-thirds of niqab and burqa wearers were of French nationality

⁷ Benjamin Ismail, "Ban the Burqa? France Votes Yes," *Middle East Quarterly* 17, Fall 2010, 47-55.

⁸ Ismail, "Ban the Burqa?"

⁹ Ismail, "Ban the Burqa?"

¹⁰ Ismail, "Ban the Burqa?"

¹¹ Ismail, "Ban the Burqa?"

including immigrants who had been in France for several generations.¹² Thus this particular phenomenon of wearing the burqa or niqab is not really an immigrant problem.

There are several levels of punishment associated with the ban. Unlike the secularity law aimed at public schools which prescribed a dialogue with offending students and then eventually expulsion if the student still refused to comply with the law, this face veil ban came with monetary punishments. The bill put a maximum fine of €150 per breach of the law and then if someone is forcing a woman to wear a face veil they receive a penalty up to €30,000 and a year in jail, this doubles if it involves a minor wearing a face veil.¹³ According to an article in the New York Times, the first fines issued from the ban came in September 2011 when two women, Hind Ahmas and Najate Nait Ali, in the city of Meaux were fined €120 and €80 respectively.¹⁴ The two women are in the process of appealing their fines. Although they were the first two that had been fined, according to the Interior Ministry 201 women had been stopped by the police since the law had taken effect in April 2011 and 159 had received citations.¹⁵

The most recent law affecting Muslims in France is a ban on praying in the street. On September 16, 2011, the ban went into effect; its purpose was to keep the overflow of people at Friday jumrah from moving into the street to say their prayers. The largest French cities are finding that they do not have enough space in their mosques for all those that come for Friday prayer so many people are forced to pray in the streets. In an effort

¹² Ismail, "Ban the Burqa?"

¹³ Ismail, "Ban the Burqa?"

¹⁴ Maïa de la Baume and J. David Goodman, "France: Court Fines 2 Women for Wearing Full Veil," *The New York Times*, September 23, 2011, <http://query.nytimes.com/gst/fullpage.html?res=9F03E1DC1E3FF930A1575AC0A9679D8B63>.

¹⁵ de la Baume and Goodman, "Court Fines 2 Women."

to make the implementation as smooth as possible, Paris Muslims were given the use of fire barracks to accommodate all those who wanted to pray while a bigger mosque space was constructed. Sheik Mohammed Salah Hamza oversaw the prayer at these barracks and told Reuters, “It’s the beginning of a solution, the faithful are very pleased to be here. The space, which holds 2,000, is full.”¹⁶ However, not everyone was happy with the new law, in northern Paris several young men with beards, green headbands and banners gathered to try and discourage people from praying at the new site.¹⁷ While this particular law did not garner the same controversy as the hijab and niqab bans, many saw it as just another example of France’s intolerance to its Muslim population. Of course the National Front was in favor of this new law, party leader Marine Le Pen referred to the prayer as an invasion and accused Muslim fundamentalists of using prayer for political means.¹⁸

The secularity law that banned the hijab in public schools, along with bans on face veils, street prayer and an overall dismal report from the ECRI on racism and discrimination in France illustrates a dramatic shift in French society. This shift reflects a change in the type of nationalism present in France. Liah Greenfeld, a widely renowned expert on nationalism, wrote in 1995 that she believed that France combined civic and collectivist nationalism. One could easily argue that her assessment of France as a hybrid of these two types of nationalism is still true. The country plays tug-o-war between its motto of liberty, equality and fraternity and its own vision of what a French person

¹⁶ Reuters, “Protest in Paris as a Ban on Street Prayer Begins,” *The New York Times*, September 16, 2011, <http://www.nytimes.com/2011/09/17/world/europe/paris-begins-enforcing-ban-on-street-prayer.html>.

¹⁷ Reuters, “Protest in Paris.”

¹⁸ “Paris Ban on Muslim Street Prayers Comes into Effect,” *BBC*, September 16, 2011, <http://www.bbc.co.uk/news/world-europe-14945467>.

should look like. The latter, in particular, was highlighted by Nicolas Sarkozy's 2009 plan to define French identity by holding a series of town hall meetings to discuss the topic.¹⁹ However instead of defining a national French identity, the plan did little more than alienate immigrants even more and was widely considered a failure.²⁰

Because of recent laws and the overall treatment of French Muslims and Muslim immigrants, one can add ethnic nationalism to the French civic/collectivist hybrid. France still retains characteristics of the civic and collectivist forms of nationalism. But being considered French is becoming more difficult with the passage of laws targeting Muslim women and Muslim prayer. It seems that for a Muslim to be considered French they must abandon certain religious and cultural traditions. Both their first and surnames immediately let others know that they are not of ethnic French or even European/Christian descent and that often affects their ability to find work and housing. With some of these laws concerning the Muslim population of France being passed as recently as late 2011, there seems to be no dialogue or movement to better the situation of integrating new Muslim immigrants into French society or helping those who have been in France for generations become fully fledged members of French society. If laws like the hijab ban and the niqab ban continue to be passed and groups like the National Front continue to spew their racist rhetoric, French Muslims will continue to be alienated and France will lose more and more of its civic nationalist identity.

¹⁹ Eleanor Beardsley, "Meetings Debate the Question of French Identity," *National Public Radio*, December 28, 2009,

<http://www.npr.org/templates/story/story.php?storyId=121963766>.

²⁰ Bruce Crumley, "Why France's National Identity Debate Backfired," *Time*, February 12, 2010,

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