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Cover Page Footnote

Pour maman, qui m'a toujours encouragée à étudier le monde qui m'entoure.

Judging From Above: French Feminists & Their Influence on the Veil Debate

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ABSTRACT

Over the past two decades, the international community has found itself questioning France's application of *laïcité* and the egalitarianism it supposedly ensures, particularly regarding veils associated with the Islamic faith. Integral to the face veil debate is the advocacy of French feminists, especially those who identify as pro-ban. Overarching, pro-ban feminists argue that the practice of wearing face veils or coverings undermines a French citizen's obligation to foster cohesion in the public sphere through the acceptance of republican norms. This viewpoint informs the analysis of the state of social division in France undertaken here. The tools of analysis include a broad review of secondary literature, the use of various other multi-media avenues, and a thorough investigation into pertinent law-making bodies. Ultimately, the paper concludes that regulations supported by pro-ban feminists have frustrated their objective of promoting gender equality and have only further deepened the divide between Islam and the Republic.

KEYWORDS

laïcité, France, feminism, republicanism, Islam

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Pour maman, qui m'a toujours encouragée à étudier le monde qui m'entoure.

1. INTRODUCTION

Over the past two decades, the international community has found itself questioning France's strict application of *laïcité* and the egalitarianism it supposedly ensures. French laws banning religious symbols in the public sphere seem to disproportionately target the Islamic faith, particularly French Muslim women. This becomes all the clearer considering that more than one national commission has been convened with the purpose of debating and passing laws against the wearing of full-face coverings, including burqas and niqabs, in public. Likewise, after the August 2016 terrorist attack in Nice, thirty towns in France enacted local legislation banning the burkini from their beaches (la Fornara, 2018). The burkini was characterized as a symbol of "Islamic extremism" and French officials defended their legislative action by citing the need for protection of the public order.

Despite facing international criticism for their policies, most French men and women are very much in favor of these bans. Seeing as though 82% of the French public approve of a ban on veils that cover the whole face, these measures face little to no domestic opposition (Pew Research Center, 2020). Based on data collected by the Pew Research Center, the face veil debate does not seem to be a partisan issue as the overwhelming majority of respondents from the left, the center, and the right reported their approval. Not only is the face veil ban popular across the political spectrum, it has widespread approval across generations. Ostensibly, a majority of the French public has decided that their desire for social cohesion and order ranks above an individual citizen's desire to outwardly express their religious identity.

Integral to the face veil debate are the presence and advocacy of French feminists, particularly those who identify as pro-ban. Overarchingly, pro-ban feminists believe that the practice of wearing face veils or coverings undermines a French citizen's obligation to foster cohesion in the public sphere through the acceptance of republican norms—*liberté, égalité, and fraternité* (Laxer, 2019). Likewise, to a pro-ban feminist, a French Muslim woman cannot be a proper French citizen if she insists on wearing a veil in public.

This paper will argue that pro-ban feminists have chosen to rely on a comfortable narrative that allows them to preserve their preferred social order, one that does not hold space for religious or cultural practices associated with Islam. Ironically, these women have been able to steer and influence a national conversation in their favor while lacking the religious literacy to understand the actual topic at hand. They represent their views in the name of "equality" while being unable to acknowledge the fundamental inequalities of French society. By refusing to recognize their inherent privilege as people who more easily embody the Republican identity, their arguments for assimilation and defense of the social order strike an authoritative tone.

2. METHODS OF ANALYSIS

It is important to recognize the plurality of feminism in France and that not all feminists fall into the binary pro- or anti-ban categories. Likewise, Western feminism is not entirely to blame for the stereotypes of veiled Muslim women, especially when considering how the "othering" of Muslim women has deep roots in France's colonial discourse (Crosby, 2014). However, for the purpose of this paper, the focus will remain on those two groups in order to demonstrate the differences between their visions of French society at large. A title revision was made early on, from "French Feminism" to "French Feminists," in order to refrain from overgeneralizing the feminist movement in France. This paper will rely mainly on the analysis of secondary literature and the use of various other multi-media avenues, like the film *Sous la Burqa*.

3. REPUBLICAN LAÏCITÉ

3.1. THE 1905 LAW ON THE SEPARATION OF THE CHURCHES AND STATE

La Loi du 9 Décembre 1905 Concernant la Séparation des Églises et de l'État established the legal foundation for Republican laïcité. Enacted during the Third Republic under Emile Combes, it instituted a form of state secularism based on three principles: the neutrality of the state, the freedom of religious exercise, and public powers related to the church (Selby, 2012). According to this doctrine, religion is purely a private affair, having no place in the public sphere whatsoever. The establishment of state secularism reshaped French society and continues to impact it to this day, particularly in terms of national identity.

On principle, the majority of French citizens agree that the most important form of identity is the Republic itself. This means that one's "French" identity must supersede any other form of secondary identification, including religious¹ ones. This idea is rooted in the spirit of the social contract, and predicates active participation within the public sphere, as a citizen, on a person's willingness to strip themselves of their individual characteristics (la-Fornara, 2018). Refusing to comply with this program of assimilation is considered to be a direct affront to the Republic. Despite the fact that the concept of laïcité was first introduced to protect the French state against the increasing sociopolitical power of Catholicism in the 20th century, Islam is now characterized as the new threat (Selby, 2012).

3.2. THE STASI COMMISSION (2003)

With rising national concern and increased numbers of public debates regarding the presence of religious symbols, then President Jacques Chirac established the Stasi Commission in 2003 to review the application of laïcité in French society. The Commission and its chair, Bernard Stasi, dealt primarily with the question of whether or not it is appropriate for headscarves to be worn in public schools. While feminist organizations were not officially consulted for this commission, they were extremely vocal in their belief that the presence of headscarves in public schools signifies a regression of women's rights (Selby, 2012).

Following the results of the Stasi Commission and building on the constitutional requirement for laïcité, an amendment to the French Code of Education was made in 2004 banning the wearing of "ostentatious" symbols or clothing that denote religious affiliation from public schools (la Fornara, 2018). Although the law does not single out any particular religious symbol, it is widely believed that the law was enacted with the motive of eliminating the hijab from the public school system (la Fornara, 2018). This view is further supported by the fact that the law later yielded to make exceptions for certain symbols, such as small crosses—a symbol that is most closely associated with Christianity.

Therefore, French Muslim students who want to pursue their educational goals and wear a headscarf must attend a private Muslim school. The first two Muslim schools opened in 2001, and as of 2020 there are only 70 in total (Ferrara, 2020). Like other religious schools, the curriculum includes the standard school subjects coupled with a religious education and environment. In a survey conducted by Professor Carol Ferrara from Emerson College, one student poignantly notes the "disadvantage" of attending Muslim schools in the following quotation:

One of the 'disadvantages' [of Muslim schools] is that after having spent three years in an environment where we don't feel guilty for being Muslim, after three years [of being] far from all the discrimination and signs of Islamophobia, after

1 Such as Christian, Muslim, Jew, Buddhist, etc.

three years during which we experience liberty, equality, and fraternity, the return to real life and notably entering [university], can constitute a shock after such a brutal change in environment. (Ferrara, 2019, p. 315)

Most recently, two bills were introduced in 2018 issuing stricter guidelines for operating independent schools in an effort to push the youth into the public school system. This concerted effort, which is supported by pro-ban feminists, will force Muslim students to forsake their religious practices and a comfortable learning environment (Ferrara, 2020). In a world where girls still face significant barriers to completing their education, it seems counterintuitive for a group who aims to promote gender equality to impose even more obstacles upon the next generation.

3.3. THE GERIN COMMISSION (2009)

In June of 2009, André Gerin petitioned the National Assembly to sanction a government-led inquiry into the advisability of legally banning full-face veils² in public spaces. Through an effective media campaign that stirred the nation, Gerin's proposal gained the support of fifty-eight deputies from across the political spectrum (Laxer, 2019). The "Burqa Commission"³ and its organizers strived to present a united and objective front so as to convey the message that banning the face veil is not a single party issue, but rather an issue that the Republic must tackle together.⁴ Having secured their mandate, Gerin and his colleagues invited certain special interest groups (stakeholders or civil society advocates) to appear before the commission to testify. These groups included feminists, pro-secularism activists, members of the French Muslim community, legal experts, and government actors among others (Laxer, 2019).

The Gerin Commission was extremely successful in advancing its objective of banning face veils by consciously underrepresenting opposing viewpoints and overrepresenting others. Out of seventy-eight participants, only seven representatives of the French Muslim community were invited, which is remarkably low considering how the scope and outcome of the commission's work directly involved and continues to impact their religious community (Laxer, 2019). Furthermore, of those who were granted an appearance, only one woman who actually partakes in veiling was given the chance to speak. Secondly, eleven out of the fourteen feminists who testified supported a legal ban on face veils, meaning that the commission failed to consult with a number of feminist organizations who oppose restrictions on forms of Islamic dress in France (Laxer, 2019). By promoting a singular viewpoint on a multi-faceted issue, the commissioners provided pro-ban feminists with a disproportional amount of influence on the veil debate.

4. THE PRO-BAN FEMINIST PERSPECTIVE

4.1. THE PROMOTION OF GENDER EQUALITY

Characteristic of a pro-ban feminist is the preconceived notion that Muslim women do not have the power to choose whether or not to cover themselves and that this way of life is forced upon them by the men in their families. By advocating for a ban on face veils, this group of feminists believe that they are freeing French Muslim women from oppressive forces and providing them with the means to reclaim their individuality. This rather

2 Burqas and niqabs.

3 A nickname for the Gerin Commission popularized by the media.

4 Gerin's political affiliation as a communist played a significant role in convincing both his fellow deputies and the public of the commission's objectivity.

infantilizing view of Muslim women who partake in the practice of veiling is prominent throughout France and plays into the Western savior complex (Crosby, 2014).

To people around the world and especially to pro-ban feminists, the image of a woman in a burqa has become synonymous with the systemic gender inequality and brutality of extremist regimes such as Taliban-controlled Afghanistan and Saudi Arabia (la Fornara, 2018). However, just like any other religion or faith community, Islam is not monolithic. The debate over whether or not veiling is compulsory has regularly surfaced throughout the international Muslim community. Although there are three verses in the Quran⁵ which believers use to justify veiling, many Muslims still argue that sharia's dress restrictions are not strictly required (la Fornara, 2018). Rather, they make the claim that traditional Islamic dress is a form of religious and cultural expression, not a religious obligation.

Muslim women who operate on the assumption that covering is an individual choice assert that there is no direct correlation between a woman's decision to cover herself—or the extent to which she covers—and her dedication to her faith (la Fornara, 2018). It is important to note that women who do not cover can be just as religious as those who don the full burqa. By operating on the assumption that Muslim women who cover have no autonomy, pro-ban feminists play into the stereotypical narrative of the liberated French whore vs. the oppressed Muslim woman. This reductionist juxtaposition is not empowering and severely discredits the role of women in French society at large.

4.2. MAINTAINING THE SOCIAL ORDER

To pro-ban feminists the veil subverts the emancipatory principles of the Republic (Laxer, 2019). Contrastingly, to Muslims it has a plurality of meanings and takes on a different level of significance to each individual. By arguing that face veils threaten a woman's capacity for individuality, pro-ban feminists make an appeal to a central tenet of Republican freedom—liberté. According to Denise Oberlin, the spokesperson for the Grande Loge Féminine de France, “faceless women are deprived of their being” (Laxer, 2019).

The problem with these “well-intentioned” bans is that women who would otherwise function as veiled individuals with agency in the public sphere are now relegated strictly to the private sphere (Crosby, 2014). Restrictions that prevent a marginalized woman from choosing how to dress do not enhance her rights. Rather the regulations severely discount her individual autonomy and detract from women's collective autonomy. An attack on one woman's agency is an attack on all women. Although pro-ban feminists would most likely agree with the previous statement, it would be framed in the idea that French Muslim women should assimilate into French culture by not veiling so as not to violate the rights of other women (Laxer, 2019).

4.3. THE CONCEPT OF VOYEURISM

According to the previously detailed argument presented by pro-ban feminists, the face veil weakens the social order and thus constitutes a violation of the rights of others. Considering the opposing viewpoints, it is clear how tension arises between women who find the veil freeing and those who insist the veil is oppressive. Pro-ban feminists situate people as subjects of society's collective gaze, and veiled Muslim women run counter-current to this ideal. Further supporting this claim, the report from the 2009 Gerin Commission cited the French philosopher Emmanuel Lévinas who asserts, “By preventing me from seeing his or her face, a person effectively makes his or herself inadmissible to the requirement of com-

5 The three verses are located in the following passages: Quran 24:31 and Quran 33:59.

munication inherent in public space. I am thus entitled to interpret that behavior as symbolic violence against me” (Laxer, 2019, pg. 134).

The argument of voyeurism is somewhat weakened by the COVID-19 pandemic. The foreign press has criticized the arbitrary nature of banning burqas and other forms of religious face coverings, while simultaneously mandating face coverings to be worn by all citizens to protect themselves against Covid-19. Interestingly the French President’s masks have been designed to tie into the national motto of *liberté, égalité, fraternité* by using the national colors—perhaps in order to set face masks apart from religious face coverings that supposedly pose a threat to the nation (McAuley, 2020). Although the law does hold for exceptions to the ban on face coverings, the symbolism of this predicament is compelling.

5. THE ANTI-BAN FEMINIST PERSPECTIVE

5.1. THE RIGHT TO RELIGIOUS EXPRESSION

While pro-ban feminist discourses appeal to the ideals of *liberté, égalité, fraternité*, anti-ban feminists tend to steer their arguments toward more concrete legal grounds. Drawing upon a strict interpretation of the 1905 law put forth by legal experts at the Gerin Commission, anti-ban feminists assert that *laïcité* is a principle governing the state, not individuals (Laxer, 2019). Following this rationale, Marie Peret⁶ states quite simply, “Individuals must have the freedom to express their belonging somewhere: we cannot prohibit it everywhere in the name of neutrality” (Laxer, 2019, p. 139). Likewise, anti-ban feminists insist on moving past a paternalistic understanding of choice—an ideology deployed by pro-ban feminists so as to advance their chosen narrative and preferred social order. Replacing the possibility of an authoritarian man with an overbearing government does not improve a woman’s rights (la Fornara, 2018). Instead, it only further substantiates a story of victimhood that often plagues Muslim women.

5.2. THE ACTIVISM OF FRENCH MUSLIM WOMEN

When the ban passed in 2011, only an estimated 2,000 women (out of France’s national population of 7.5 million Muslims) reported wearing a niqab or burqa (la Fornara, 2018). Since then, most of the women who wore a niqab or burqa before the enactment have continued to do so despite it being a criminalized act. Thus, the majority of women who have been fined are repeat offenders whose non-compliance is an act of protest. Some experts have even concluded that the bans have encouraged other Muslim women who previously had not partaken in the practice to now veil themselves as an act of solidarity (la Fornara, 2018). Notably, since the regulations became enforceable, no man or person has ever been fined for forcing a woman to cover; only women have been fined for their veiling practices. The intent of pro-ban feminists to restrict a woman’s ability to outwardly express her religion and/or culture has in fact fortified the bond Muslim women feel towards the veil.

The Western vision of what a feminist may look like is contradicted and complicated by French Muslim women who exercise their agency in both public and private spheres while being veiled. Documentaries like *Sous la Burqa* (2010) provide French Muslim women with a platform to speak to their own personal experiences of being a veiled Muslim woman in France. Rarely are these women given such an opportunity, as Western feminist groups (of privilege) typically dominate the national conversation while not having to be impacted

6 The national secretary of the International Observatory for Secularism against Communalist Threats.

by the consequences of veiling restrictions (Crosby, 2014). Despite not receiving much media attention to present their side of the debate, veiled women have organized a number of communicative protests and even some disorderly riots in objection to France’s discriminatory policies (Crosby, 2014).

6. REGULATIONS AND THEIR EFFECTS

6.1. RISE OF “SEXIST ISLAMOPHOBIA”

Following the passing of the regulations in 2011, the French Collective Against Islamophobia stated that Islamophobic attacks doubled between 2011 and 2012. Not only did the number of attacks increase, but veiled women were the primary targets, accounting for 77% of the victims (CCIF, 2013). These figures reveal a unique and troubling problem of sexist Islamophobia, as women were and are the primary targets. In a dark twist of irony, restrictions meant to “improve” gender equality and “protect” women have only put even more of a target on the backs of Muslim women.

It is clear that the discrimination veiled Muslim women face is pervasive and is particularly salient in the workplace. As detailed by Esther Rootham in her research, the state-endorsed racialization of Muslim women negatively impacts their employment opportunities (Rootham, 2015). Workplaces have a particular set of rules, in which *laïque* and pious principles must interact with each other. In order to be successful in these spaces, Muslim women must constantly emphasize their individual and conscious choice to practice their religion. Socially requiring Muslim women to justify their religious choices in both the public and private sphere only negates their autonomy.

6.2. INTERNATIONAL CRITICISM

Internally, the French media coverage of the 2011 ban and the 2016 Burkini ban focused on presenting a unified identity of France as a secular nation⁷, and very few newspapers offered criticism of either of the bans. Yet the international press came down hard on the bans, classifying them as acts of coercion and cultural imperialism (la Fornara, 2018). Even the United Nations Human Rights Committee (UNHRC) released a statement declaring that France’s ban on the *niqab* was a violation of human rights, as it disproportionately harmed the right of women to express their religious beliefs (Miles, 2018). Unconvinced by France’s argument that the ban was necessary to achieve its national goal of “living together,” the committee called on France to review the legislation. While the UNHRC’s decision is not legally binding, it is a sign of their disapproval.

7. CONCLUSION

Unsurprisingly, French Muslim women often refuse to conform with a system that requires them to forsake a custom some consider to be a central part of their culture or essential to their religious practice (la Fornara, 2018). Through their fundamentally flawed perception of Islam’s relationship with women, pro-ban feminists then wrongly re-interpret these acts of defiance as a rationale for increased feministic reforms. However, this storyline fails to explain why so many women in Western countries continue to wear veils while simultaneously living in a society that attempts to force women to uncover themselves. Ultimately, regulations promoted by pro-ban feminists have frustrated their objective of promoting gender equality and have only further deepened the divide between Islam and the Republic, with the burden falling squarely on the shoulders of French Muslim women.

⁷ With an emphasis on respecting religious freedoms while still being able to control its public expression.

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