

Restrictions on Face-Coverings & Religious Symbols

(Long Version)

David Rand

President, Atheist Freethinkers, Montreal, Canada

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In recent years, several countries or regions have adopted laws restricting the wearing of face-coverings or religious symbols. (See Table 1.) Probably the principal concern motivating such legislation is security, as face-coverings are obviously useful as disguises. However, that is not the only reason. Stemming the tide of Islamist fundamentalism and its extreme misogyny is also a major concern. Certainly the main face-coverings targeted by such laws are the most extreme versions of the Islamic veil: the niqab, which leaves only the eyes exposed, and the burqa which obscures even the eyes behind a concealing net or grille.

The ban on religious symbols in Turkey dates from the early 20th century, corresponding to the end of the Ottoman Empire and the Islamic Caliphate, and the founding of the Republic of Turkey. This case is not only the oldest such ban of which I am aware, but it also stands out as a case of conscious and concerted modernization, part of a major effort, under the leadership of Mustafa Kemal Atatürk, to end centuries of religious obscurantism in that country. The fight against Islamic misogyny was a major component of that effort.

The other bans listed in Table 1 are much more recent, most from the early 21st century, and the issue of security probably dominates as a motivating factor. This corresponds to the rise of political Islam and its aggressive campaign to extend its influence as widely as possible. However, terrorism, with the concomitant concern for security which it generates, being the most spectacular of Islamist strategies, is only the tip of the iceberg. The simple promotion of the Islamic veil, attempting to impose it and normalize its wearing anywhere and everywhere, is just as important in this campaign. Again, Turkey is a bellwether in this regard, because its modernization efforts, begun almost a century ago, have recently been compromised by the election of an Islamist political party to the national government and, in particular, by the repeal in 2013 of the ban on hijabs for public servants.

Court Challenges

There have been court challenges to various religious symbol bans. For example, in December 2012, Belgium's Constitutional Court ruled that that country's ban on the full veil did not violate human rights and refused to invalidate it.

In July 2014 the European Court of Human Rights rejected a complaint from a French Muslim woman of Pakistani origin, thus upholding the French ban on the full veil. In July 2017, the same Court upheld the Belgian ban on face-coverings, considering it necessary in a democratic society to protect the rights and freedoms of others.

In March 2017, the Court of Justice of the European Union ruled on two cases, involving two hijabis working in the private sector, one in France, the other in Belgium. The Court decided that an enterprise may legitimately adopt an internal rule forbidding the wearing of political, philosophical or religious

symbols by its employees. However, in the absence of such a rule, an *ad hoc* restriction could be considered discriminatory.

The above decisions validated bans in Belgium and France. However the situation in Canada is very different. Only weeks ago (2017-12-01), responding to a request by the Canadian Civil Liberties Association (CCLA) in collaboration with the National Council for Canadian Muslims (NCCM), Quebec Superior Court suspended legislation which (weakly) bans face-coverings in public services.

The Universal Declaration of Human Rights

Clearly, any legislation which restricts dress must endeavour to strike a balance between personal freedom and the state's duty to protect its citizens and its institutions from the toxic influence of aggressive ideologies such as religious fundamentalism.

The United Nations *Universal Declaration of Human Rights* (<http://www.un.org/en/universal-declaration-human-rights/>) is not a perfect document—there is no such thing, unless one is so irrational as to believe in the divine origin of certain scriptures—but it is a good starting point for a discussion of human rights. For example, I have my doubts about Article 26(3) which guarantees parents' rights over their children's education, because it opens the door to the religious indoctrination of children. Nevertheless, the Declaration represents a wide consensus as it was “drafted by representatives with different legal and cultural backgrounds from all regions of the world.”

Article 18 of the Declaration guarantees everyone's “freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.” However, Article 29(2) declares that “everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others.” In other words, the rights of each individual are limited by the need to respect the rights of others. Your rights end—or at least may be subject to some restriction—where mine start, and vice versa. We recognize in these two Articles the poles of personal freedom and collective responsibility, mentioned above.

The Nature of the Islamic veil

To achieve an appropriate balance between the two poles, it is important to understand the nature of the article most often targeted by the legislation. The Islamic veil in its various forms (hijab, tchador, burkini, niqab, burqa, etc.) can be described as:

1. a propaganda tool of political Islam, a logo for the promotion of Islamofascism;
2. a tool for the subordination of women, a manifestation of the extreme misogyny of fundamentalist Islam;
3. a tool to brand and segregate Muslim women, marking them as pure and the exclusive property of pious Muslim men.
4. a religious symbol, or more accurately a politico-religious symbol;
5. a barrier which hinders communication and identification and is a threat to security, especially in the case of the face-covering niqab and burqa.

Furthermore, the niqab and burqa are extreme versions of the veil and thus extreme forms of

Islamofascist propaganda, proselytism and misogyny, better characterized by replacing the word “subordination” by “enslavement” in point 2 above.

Given its meaning and purpose, the Islamic veil, especially the niqab and burqa, deserves to be banned in any situation where it constitutes a threat to the dignity of women and humans in general, or infringes on the freedom of conscience of the citizenry. Allowing a representative of the state—police, judge, public service employee, etc.—to wear a partisan religious symbol while on duty is unacceptable because it violates the freedom of conscience of users who must interact with that representative. It would be unthinkable to allow commercial or political advertising on, for example, police uniforms; to allow religious advertising is just as improper. If the face is obscured, then even allowing users of public services to wear it is inadmissible, for why should public resources be wasted by adding to security and communication costs in order to deal with a barrier whose purpose is to promote an ideology contrary to the public interest?

Arguments Against Bans

Various arguments, or rather pseudo-arguments, have been advanced in an effort to rationalize a total refusal to ban religious symbols or face-coverings.

1. **The argument of individual rights**, i.e. that any ban is an unjustifiable restriction on personal freedom, specifically freedom of religion. This makes sense only if one gives freedom of religion priority over all other considerations—more important than the freedom *from* religion which all deserve, rather than having to deal with a public servant advertising their ideology in the workplace; more important than the duty of the state to protect its institutions against toxic religious interference. No, giving priority, i.e. privilege, to religion in this way is unacceptable.
2. **The “Don’t tell women what to wear” argument.** This fatuous argument is a variant of the previous. Religious symbol bans do not tell anyone what to wear; they simply restrict religious advertising. At any rate, dress restrictions, both explicit and implicit, are commonplace in society. Try walking down the street wearing a Gestapo uniform, or wearing a bikini to a job interview, or applying for a driver’s license wearing a Darth Vader costume. (Suggested reading: “Bill 62 and Dress Codes” www.atheology.ca/blog-090/)
3. **The symmetry argument.** Another variant of the two previous, arguing that freedom to wear and freedom not to wear are equivalent, as if there existed symmetry between being required to remove a veil and being forced to wear one. This would be laughable if it were not so cruel. No-one is suggesting that hijabis and niqabis who refuse to respect a ban be subjected to physical violence, which is what women who refuse the veil risk in some countries. There is no symmetry here.
4. **The argument of small numbers**, i.e. that in some countries only very few women wear, for example, the niqab. This argument is vacuous for at least two reasons: (a) globally the numbers are *not* small, given that political Islam has already had considerable success in forcing the veil on women in many countries; and (2) even if the numbers were small, a ban in some

circumstances is justified, just as banning slavery is justified no matter how few slaves there may be. A ban is a preventive measure, to slow the already alarming spread of political Islam. The niqab and burqa are serious threats to women's rights, regardless of numbers.

5. **The argument of racism.** This is obvious nonsense as we are dealing with religion here. A collection of religious believers does not constitute a race. This is especially true of a category as highly heterogeneous as Muslims (or Christians, etc.). Even if we consider a very homogeneous subgroup, i.e. a very specific religious sect, it is still not a race. On the other hand, religious bigotry is certainly possible. See the next point.
6. **The argument of religious bigotry,** i.e. the argument that such bans may be motivated by unavowed nefarious prejudices, i.e. they are Trojan horses for bigotry. Although religious bigotry can and certainly does occur, its existence does not negate any of the important and solid reasons why bans are sometimes desirable or necessary. For example, the Conservative Canadian government of Stephen Harper certainly harboured many Christian fundamentalist bigots who were prejudiced against Muslims for reasons of religious competition, but that party nevertheless took a position which was more progressive than its adversaries when it opposed the wearing of the niqab at citizenship ceremonies. Doing the right thing for dubious political reasons is still better than doing the wrong thing. A ban on face-coverings in such ceremonies was the required solution.
7. **The “stigmatization” argument.** It is often claimed that any ban on the Islamic veil would “stigmatize” Muslim women. Behind this tendentious language hides a privilege granted to Islam. We do not hesitate to denounce Christian fundamentalists and creationists who publicly promote their view that evolution is a myth. We would dismiss their opinion as anti-scientific nonsense and would not even consider the extravagant notion that our denunciation somehow “stigmatizes” Christians. Similarly, when Islamic fundamentalists and misogynists aggressively campaign for the normalization of an ambulatory prison for Muslim women, we must denounce their campaign and criticize the religion Islam on which they base it. Those Christians and Muslims who promote such egregious nonsense stigmatize themselves. Similarly, those few, but very vocal, Muslim women who voluntarily wear and promote the veil, and then complain about feeling excluded from society in some way, are the authors of their own exclusion and “stigmatization.” All forms of fanaticism, including the Islamist veil, deserve criticism.
8. **The argument of xenophobia or “Islamophobia.”** This seems to be the favourite, default argument when all else fails. Once again, we are in the realm of hypothetical nefarious prejudices. Those who oppose all bans on religious symbols simply throw out baseless slanderous accusations when their other arguments fail. Furthermore, we all know that the term “Islamophobia” is nonsensical because criticizing or opposing a dangerous and aggressive ideology such as the Islamist variant of Islam is certainly not an irrational “phobia.” Not only is “Islamophobia” basically a new crime of blasphemy, such accusations constitute a tool to censor the open discussion of Islam which is so necessary in order to understand the need for measures such as bans on religious symbols or face-coverings.

Arguments For Bans

The very nature of the Islamic veil as described above constitutes sufficient reasons to ban it in several circumstances. Let us review and complete those reasons:

1. **Women's rights.** The veil is an ambulatory prison for women, a flag of an extreme right-wing international political movement. It should be banned wherever such prohibition does not constitute an undue infringement on personal freedom.
2. **Freedom of conscience of citizens and pupils.** Both freedom of religion and freedom from religion are corollaries of freedom of conscience. The wearing of ostentatious religious symbols by public servants while on duty elevates their freedoms above those of users of services, granting a religious privilege to the former. It is an infringement on the freedom of conscience of users because it subjects them to politico-religious advertising in a situation where the state has a duty to be neutral. This situation is especially serious in the case of public schools where the users are children who are very vulnerable to the influence of teachers. Banning public servants, and in particular teachers, from wearing religious symbols while on duty constitutes a small infringement on their personal freedom which is completely justified by the necessity of protecting the freedom of conscience of citizens and pupils.
3. **Political Activism in an Inappropriate Context.** The wearing of politico-religious (or commercial) advertising while working as an agent of the state is unacceptable because it compromises state neutrality.
4. **Communication (for face-coverings).** Face-coverings impede communication, especially non-verbal communication for which the reading of facial expressions is critical.
5. **Security (especially, but not exclusively, for face-coverings).** Face-coverings are an obvious form of disguise. Furthermore, all veils may reduce the wearer's visual range and restrict head movement, causing serious security issues. Even the hijab and tchador which do not cover the face should not be worn while driving a vehicle or operating heavy machinery.
6. **Identification (for face-coverings).** Even in the absence of security concerns such as suspicion of criminal intent, face-coverings make it more difficult to determine the identity of the wearer.

For the last three considerations, any workaround (i.e. accommodation) which may be provided in an attempt to mitigate problems caused by veils is an unacceptable waste of resources. The solution is to ban the veil, not accommodate it.

False Solidarity

Total tolerance of the Islamic veil does not help Muslim women or anyone else. On the contrary, it harms everyone, and in particular it harms Muslim women because it abandons them to the pressure of their family and community to conform to the increasingly aggressive demands of fundamentalists.

In particular, non-Muslim Western women who occasionally don a hijab or other Islamic veil in so-called "solidarity" with Muslim women are in reality doing them serious harm. They betray women in

Muslim-majority countries who are forced to wear the veil. In Muslim-majority countries, the pressure on women to conform to religious practices which the fundamentalists claim to be required of them is severe and those women who resist that pressure and go out in public without a veil often risk arrest, imprisonment, acid-attacks or worse. As *Headscarves and Hymens* author Mona Eltahawy points out, “Western women who wear the veil contribute to the subservience of women elsewhere in the world for whom wearing the veil is an obligation.”

In Western countries, the harm done by this false “solidarity” is more insidious but just as real. It contributes to the normalization and spread of the veil, it facilitates the fundamentalist mindset which promotes the veil and it blurs the distinction between fundamentalism and modernism. Furthermore, it makes it more difficult for Muslim women to free themselves from the clutches of their religious milieu. For example, if such a woman seeks a public service job and if religious symbols are banned for employees in the public sector, this gives her an excellent reason to remove the veil at least while on the job. But if there is no such ban, she is deprived of a major tool against religious coercion.

As for those women who wear the Islamic veil purely by choice, completely voluntarily, they can choose not to wear one if they seek employment in the public sector. If removing the veil for the sake of employment is so repugnant to them that they refuse to do so, that simply indicates that their religious fanaticism is stronger than their desire to integrate into the work environment. Such a person is a very poor candidate for the job.

Do Not Capitulate to Islamofascism!

No discussion of banning religious symbols would be complete without denouncing the foolishness and irrationality of those who systematically oppose any ban on the Islamic veil. Such individuals and organizations are guilty of a cowardly capitulation to Islamofascism and an unconscionable betrayal of Enlightenment values. They represent what has become known as the “regressive left.” The CCLA mentioned above and anyone who supports their campaign against the recently adopted Quebec face-covering ban fall into this category. Even such a feeble ban is too much for them.

Do not forget Turkey and the dangerous recent developments in that country: the deterioration of its democracy, the deepening influence of Islamism, the erosion of the Republic’s secular foundations, the re-introduction of the hijab in state institutions. Those who oppose all bans on the wearing of religious symbols, some of whom even claim, hypocritically, to be secularists, have much more in common with the Islamist President Erdogan than they do with the atheists and secularists of, say, *Charlie Hebdo*.