

To Veil Or Not To Veil: Examining the Dynamics of Race and Sexuality within the French Hijab Ban

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Abstract

In April of 2021, the French Senate chose to introduce added expansive legislation relating to the visibility of religious dress in public spaces to bolster the country's secular commitments. Though the existence of religious symbols in public spaces remains a matter of controversy, France's legislative body has over the past two-decades introduced a string of legislation which has a disproportionate effect of Muslim women and girls. Namely, the current proposed bill would ban the use of *hijabs* in public spaces for girls under the age of 18, and this severely restrictive decision has gathered both national and international condemnation within feminist circles as a perverse attempt at policing women's bodies. Therefore, this paper hopes to contribute to the rich field of intersectional feminist writing, drawing on the work of black feminist Kimberlé Crenshaw, and provide added consideration of religion and sexuality. More specifically, in addressing the unique positionality of Muslim women this paper identifies the interacting dynamics of gendered orientalism and women's sexual agency in Western neo-liberal states promotes further marginalisation and victimisation.

Keywords: intersectionality, gendered orientalism, hijab ban, sexual agency, neoliberal, feminism

Introduction

In France, the symbolism of the hijab has been an ongoing debate for decades, however, 2004 came as a defining moment following the work of the Stasi Commission¹ (Hamdan, 2007), as the French Government passed a ban on all *conspicuous* religious clothing in schools, such as large crosses, veils (including *hijabs*) or skull caps² (Scott, 2007a). The 2004 legislation banning headscarves in public schools was a significant turning point in making a clear distinction between acceptable and unacceptable signs of religious clothing (*Ibid.*). While the language of the legislation addresses all forms of religious symbols, this form of legislation primarily targeted Muslim girls and the Islamic *Hijab*.³ This decision was followed by an

¹ The Commission de réflexion sur l'application du principe de laïcité dans la République, commonly referred to as the Stasi Commission was headed by Bernard Stasi was institutions by then President Jaques Chirac in 2003. Its aim was to investigate the application of the principle of secularism in response to the contemporary challenges posed by religious practices in French society.

² Translated from the French Government Website <available at: [Loi séparationisme, respect des principes de la République | Vie publique.fr \(vie-publique.fr\)](http://Loi séparationisme, respect des principes de la République | Vie publique.fr (vie-publique.fr)>)> [accessed: 04/10/21]

³ Although the law bans all conspicuous religious dress, the subject of Islamic headscarves largely dominated debates surrounding of the ban, as the role of Islam in French society remains a highly controversial topic. Hence, when the law was first proposed, the Sikh community was largely misinformed about the laws effect on their

increased politicisation of Islam in the country, reinforcing existing perceptions that Islam is not compatible with Western democratic values, and that its practice is synonymous with Islamic fundamentalism (Zempi, 2016). Under the veil of *laïcité* (secularism) and egalitarianism, France has since introduced a string of legislation which disproportionately affects Muslim women and girls, as the place of religious symbols in public places remains a matter of controversy. Namely, the ‘Anti-Separatism’ Bill drafted and passed by the French Senate in April of 2021 claiming to “bolster the country’s secular system” (Aljazeera, 2021), would ban girls under the age of 18 from wearing a hijab in public places (Vie Publique, 2021). This recent decision has drawn both national and international condemnation through the hashtag #HandsOffMyHijab⁴ on social media, many stating that the proposed rule amounts to a “law against Islam” with deeply sexist and Islamophobic connotations (Aljazeera, 2021).

It follows that, the lived experiences of Muslim women in Western states may be understood at the unique intersectionality⁵ of gender, religion, ethnicity, and the politicization of the hijab. To that end, the aim of this paper is to evaluate the unique forms of racialised sexism which informed and motivated this type of Bill. This paper will argue that French policy reflects a deep misunderstanding of gender relations especially in reference to the treatment of the female sexualised body. In order to address this complex issue, the argument is structured as follows. Firstly, we will observe the dynamics of cultural essentialism and the role of gender equality as justification to assert the “Western model”. Secondly, pursuant to the Western model of body visibility, how the *hijab* disrupts the accessibility to the body, and therefore the sexuality of the wearer. Lastly, this paper will address how this disruption leads to wider limitations to women’s sexual agency.

religious expression as “Sikhs has never posed a problem”. Therefore, following its implementation many considered themselves “accidental” victims of France’s hostile attitude to Islam.

See N.M Thomas, (2005) ‘On Headscarves and Heterogeneity: Reflection on the French Foulard Affair’, *Dialectal Anthropology*, Vol. 29, 373-386

⁴ Translated from the French #TouchPasMonVoile, both hashtags have been used interchangeably on social media

⁵ Crenshaw develops the concept of intersectionality in her 1989 paper ‘Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine’ which establishes an understanding of identity politics to include how a person’s intersecting identities affect their experience in the social world.

Gendered Orientalism

Whilst it is understood that the veil or the *hijab* is not the only sign of Muslim religious belief for women (Zimmerman, 2015), France continues to uphold legislation that primarily targets Muslim women framing their dress as a serious threat to French secular values, as noted by the French characterization of the veil as the “ultimate symbol of patriarchy and resistance to modernity” (*Ibid.*). Here, Scott offers a framework to recognise already existing binaries informed by deep-rooted social understandings of gender equality and sexuality. They note that attention to secularism in this case has entered popular discourse as part of the “clash of civilisations” rhetoric, particularly, in the realm of sexual politics (2007). More specifically, the demands of Islam (embodied by the *hijab* for example) are understood to represent totalitarianism and sexual repression, and therefore stand in stark contrast to the values of equality and democracy attributed to equality and democracy attributed to Western secular States (Scott, 2007b). Therefore, feminist goals of gender equality have not only become markers of civilisation, but also the difference between “us” and “them”. The use of the *hijab* symbolises that difference, suggesting that, whilst “we” respect the agency of women, the *hijab* is held up as proof of “their” backwardness and barbarity (Pratt, 2013). Consequently, these binaries fuel a justification for Muslim women to assimilate to French secular values as a conduit to liberate themselves from the oppressive demands of their religion and culture.

It is widely recognised that constructs of the “other” have been used to justify conquest and colonialism, and that this form of orientalist discourse has been both racialised and gendered for its use (Pratt, 2013). These dynamics continue to function today, as women’s rights discourses have been co-opted into the broader debates of “gendered orientalism”, notably marking the “other” woman as a voiceless victim of the barbaric “other” male (Khalid, 2011). This follows the paradigm of the colonial protection of native women, namely, “white men saving brown women from brown men” (Gayatri Spivak, 2010:34). Within this framework, Western States have identified the existence of Islam, as an obstacle to their understanding of democracy. Specifically, Western models of sexual emancipation includes the “free reign of individual desire” (Scott, 2018:162), to which some authors identify the concept of “sexual democracy” (*ibid.*). It follows that, in the view of French legislators, Islam is represented through the *hijab* which evokes the failures of secularism (associated with ideals of sexual

liberation), and therefore stands in opposition “sexual democracy”. As sexual equality is considered a primordial value, those believed not to share this value are considered different and marginalised as “the other”. It follows that, the French model of assimilation requires individuals adhere to their values (Byng, 2010), as, it is not necessarily the mere existence of Islam, but more so the visibility of Islam through items such as the *hijab* that cannot be reconciled the “secular values” of the State. Thus, France’s “secular” national “identity is secured by protecting the French population from witnessing expressions of Muslim identity (*ibid.*).

Despite growing literature contesting images of oppressed, agentless veiled women, secular Western States such as France continues to misrepresent the lived experiences of Muslim women, as the dominant discourse of secularism continues to illustrate these women as “proof of the superiority of “our” way of life” (Scott, 2018:53). Indeed, even within feminist circles, the *hijab* remains a point of contention, grappling between a symbol of oppression or autonomy and liberation (Zimmerman, 2015). Research has shown that many Muslim women do not necessarily associate veiling with oppression, or traditional gender roles (Zempi, 2016), however, a reoccurring justification put forward both by lawmakers and French Feminists in favour of banning of the *hijab*, is its negative implications for gender equality in France (Byng, 2010). This not only highlights a considerable misunderstanding of the complexities of Muslim women and their choices to wear the *hijab* but is proof of the irreconcilable differences between the culture of Islam and that of France. Therefore, it is important to recognise that alongside States, Western feminists are “not free from ethnocentric assumptions of their own cultural superiority” (Hamdan, 2007). This sense of superiority is at the root of French beliefs that Islam is a sign of inferiority in comparison to the values and ideals of secular states, and therefore, those who conform are by definition inferior and could therefore never be “fully French” (Byng, 2010)

In reference to this, Hamdan suggests the concept of “gendered Islamophobia” which “targets Muslim women specifically [...] based on [their] religious identity” (2007:2). As such, *hijab* bans as seen in France, connote a worrying trend of exercising increased pressure on Muslim women and girls as a method to address gender inequality (Hamden, 2007). Namely, this assumption operates alongside the racial and orientalist paradigm discussed above, rooting State understanding of gender equality in our own belief of superiority (Khalid, 2011). Notably, this approach infers that the *hijab* is the source as well as the cause of Muslim

women's oppression. By banning the Muslim veil, the State is removing what they understand to be a "marker of the submission of women"⁶ (Retailleau, 2019), however, this is often conflated with the removal of the actual existence of gendered oppression. Therefore, this asymmetrical discourse policing Muslim women's bodies, allows States such as France to position themselves as defenders of women's rights (Selby, 2014). This, however, leads to concerning assumptions about the gendered realities of women in Western secular countries, as the continued focus on the *hijab* distracts attention from investigating the true complexities of gendered oppression suffered by Muslims and non-Muslims (*ibid.*). Thus, introducing legislation that implies progressiveness and equality, all without addressing real systematic issues such as poverty, violence, wage disparity etc.

Body Visibility and Sexuality

Wearing a *hijab* is a highly visible manifestation of the Muslim faith and has been continuously conflated with the visual embodiment of gender oppression and inequality (Zempi, 2015). To that end, the visual disruption of the body posed by the *hijab* is especially prominent, namely in reference to the female "sexed body" to which Khosrokhavar offers the dichotomy of "open" and "closed" sexuality (Khosrokhavar in Scott, 2007a). This is an important binary to address, namely in our treatment and of the female body in Western countries as the visual accessibility of women's bodies implies a degree of sexual availability to the other sex (Scott, 2007a). To that end, the unspoken availability of the body is conflated with female autonomy, and this version of women's emancipation is based on successful constructions of the covered "oppressed other" (Mohanty in Khalid, 2011). Therefore, the *hijab* stands as a stark contrast, not only in its symbolisms of modesty, but its insinuation of the sexual unavailability of covered Muslim women. Namely, due their unwillingness to engage with the normal protocols of interaction with the opposite sex, it is not necessarily the absence of sexuality of Muslim women and girls being remarked, but its presence (Scott, 2007). It follows that, when referring to the body, its accessibility to the other sex is therefore, framed as a prerequisite for female sexuality. Therefore, Muslim modesty in comparison to the expectations of female sexuality is not only different but excessive, even perverse (Scott, 2007a).

⁶ Direct translation from the French "le voile est un symbol de soumission"

What is noteworthy in this context is, the common assumption that the visibility of women's bodies symbolises their emancipation (Lefebvre & Beaman, 2012 in Selby) and therefore, assimilation to French secular values. However, this continues to shape women's worth, and agency based on the availability of their body to be consumed by men. As noted above, the *hijab* infers a denial of sexuality, namely regarding its unspoken availability to men, which supposes that veiled women are lost to their femininity as their sexual body is quite literally "under wraps" (Scott, 2018: 157). However, beyond the scope of denial of sexuality to men, the *hijab* can be equated to an assault on male sexuality as a similar rationale of open sexuality (Khosrokhavar in Scott, 2007a) applies to the formation of male sexuality. Namely, this is built on men's ability to openly observe, and desire women (a.k.a. the male gaze) as well as receive visual acknowledgment by women (Hamdan, 2010), in the form of a smile for example. Therefore, the use of the *hijab* can be, under these terms framed as a sexual provocation and denial of sex (Scott, 2007b), therefore, an assault on "open" male sexuality as it denies men of visual sexual pleasure. Therefore, the European emphasis on unveiling Muslim women, combines the Western colonial dream of uncovering the woman of the enemy (Scott, 2018), and the State-mandated commodification of women's bodies, not for women's agency but for male consumption.

Whilst portrayed and justified as a neutral secular project, these limitations, on the wearing of *hijabs* and other forms of covering is by default involved in prescriptive sexual politics, as the consumptive public accessibility of women's faces, and bodies clearly matters (Selby, 2014). In Western feminist discourse, agency, and choice, with respect to religious women is primarily associated to liberal concepts of emancipation, and it follows that, the focus on autonomy and choice implicitly refers to secularism (Salem, 2013). Indeed, the road to women's emancipation in the Western neo-liberal sense continues to campaign for women's right bodily autonomy and more specifically women's right to undress (i.e., free the nipple, slut walk etc.). However, in the case of France, some authors argue that its form of emancipatory secularism has subsequently created an expectation of the visual availability of women's sexualised bodies to men (Scott, 2018). Whereas this statement is in the view of this author an overgeneralisation the complexities of female emancipation and autonomy, it offers an interesting insight on how the concepts of "autonomy" and "agency" have been commodified and appropriated by the State to concretise the idealised modern secular body (Selby, 2014). Therefore, creating an entire new set of limitations for women to operate

under. Within this understanding of secularism, secular is synonymous with sexual liberation (Scott, 2018), however liberation is not defined by agency and choice, but female liberation is based on their conformity to French values of femininity and sexual availability to heterosexual men. To that end, both French legislators and the general public has yet to express concern about the overtly sexualised nature of these bans in pushing to “protect them” (Zimmerman, 2015:146), as by marginalising the wearing of *hijabs*, the State effectively asserts a regulated and idealised performance of sexuality and femininity.

However, in response to this limited understanding of sexuality introduced by the secular model of female sexuality and agency, some commentators note the *hijab* as being a symbol of resistance (Zempi, 2016). Namely, as the “imposition of Western dress codes and lifestyles [...] prompts many Muslim women to reaffirm their identity by wearing the *hijab*” (Hamdan, 2007, 3). Arguably, this moves away from the colonial victim identity ascribed to Muslim women and girls (Allision, 2012), as many women argue they are liberating themselves from the dominance of mass-consumption fashion and physical appearances (Hannan 2011, 81 cited in Zempi). From this perspective, the wearing of a *hijab* for example, demonstrates both assertiveness and agency, namely as a means of protection from the male gaze. Namely, bell hooks suggest that “it may very well be that celibacy is the face of liberated sexuality” (Hooks, 2014)⁷. Indeed, this goes beyond the discussions of the *hijab*, however, it poses an interesting question in response to the mass consumption of the sexual female body: is it better to not be sexual than to be negatively and non-consensually sexualised? To that end, the form of control over the visibility of the body offered by the *hijab* for example, could be theorised to hold a higher degree of agency and choice, namely in subverting and challenging the patriarchal colonial ownership of “subordinate women’s” bodies (Bowen, 2011, 332).

Sexual Agency

Failing to recognise the intersecting socio-cultural dynamics which inform women and girls in their decisions to adopt the *hijab* or not, furthers their stigmatisation as religious extremists in need of rescue from their own oppression (Zempi, 2016). However, part of the intersectional project is to decentralise and challenge the dominance of western neo-liberal

⁷ Extract from bell hooks roundtable discussion (2014) ‘Are You Still a Slave? Liberating the Black Female Body’ *Eugene Lang College*, 1:26:15
See [bell hooks - Are You Still a Slave? Liberating the Black Female Body | Eugene Lang College](#)

feminist constructs. To that end, Hamdan notes, that in modern Islam women are informed by numerous reasons to observe the *hijab*, namely historical, economic, social, gender, religious and political reasons (2007). Indeed, beyond the central question of agency and autonomy, it is vital to acknowledge to intersectional pressures experienced by Muslim women in regard to the expression of their faith. However, in France, lawmakers continue to restrict their understating of the *hijab*, stating that it “characterises the claim of Islamist ideologies to impose on us a counter society separate from the national community”⁸ (Retailleau, 2019). This form of marginalisation further infers the need for Muslim women to live and dress up to the standard of French women, which some argue to be a modern “civilising mission with all of its racist and colonial implications” (Scott, 2007: 150). This additionally creates an expectation, a demand for them to display their bodies and experience sexuality as prescribed by French society (*ibid.*).

To that end, the imposition of Western dress has offered an opportunity for many Muslim girls and women to reaffirm their Muslim identity, the *hijab* therefore becomes a form of resistance to Western imperialism (Hamdan, 2014). It is vital remain aware of the complex underlying dynamics which inform the discourse and legislation surrounding the *hijab* and other Islamic dress. Namely, the obvious dichotomy between “covered” and “uncovered” bodies is not only referring to women exercising their independent sexual agency, but in “advertising their sexual availability, and so appealing to longstanding gender asymmetries” (Scott, 2018:158). Notably, there are many examples of the continued objectification of women in Western democracies, among them accounts by women required to conform to dress codes that emphasise their sexuality.

Furthermore, when applying this framework to young girls, (minors, if the 2021 bill passes the French National Assembly), the State is not only forcing them to choose between their ability to lead a normal social life, and their religious identities expressed through the *hijab*, but demanding their assimilation to the “open [sexual] secular body” (*Ibid.*: 179). This reaffirms the fact that the State allows itself to legislate its idea of “acceptable sexuality” across both public and private spheres as a central component of the production of acceptable sexual civility (Selby, 2014). In addition, to put this most recent bill into perspective, with the

⁸ Direct translation from the French, “c’est un symbol des valeurs Islamistes qui nous imposes une contre socetié séparée de la communauté nationale”

right to adhere or not to adhere to wearing a *hijab*, however, basing discriminatory legislation on the assumption of oppression leads to misinformed and overgeneralised legislation which disproportionately marginalises a certain subset of the population (Hamdan, 2007).

Moreover, this paper acknowledges both the racial and gendered dynamics that underline these decisions, as these policy decisions reflect a deep misunderstanding of the complex lived experiences of Muslim women in Western secular countries. Therefore, this paper promotes the use of an intersectional perspective, placing young Muslim women's experiences at the centre of this debate, acknowledging the interacting dynamics of gender, race, religion, and culture.

It remains clear that the discourse of the *hijab* in France is still predominantly dictated by a framework of “gendered orientalism”, as it continues to function along the binaries of “us” and “them” (Khalid, 2016). It follows that, Muslim women continue to be framed as oppressed and agentless within this colonial framework, and the *hijab* is a manifestation of that oppression (Bowen, 2011). This infers a responsibility on the secular state to liberate them in order for them to assimilate to *our* common values. Therefore, gender equality and female emancipation have become synonymous with Western secularism which promotes the notion of “open sexuality” and “uncovered bodies” (Scott, 2018). Therefore, the visual disruption of the *hijab* cannot be assimilated to secular French values, thus, sexuality remains the measure of difference that Muslims must traverse to become fully French (Scott, 2007b). In addition, the implicit assumption is that by removing obvious signs of religious identity, it ensures that France's citizens share a national identity, existing together in a single integrated society (Byng, 2010). However, this form of assimilation holds a significant cost to individuals personal female and Muslim identity (Zempi, 2016). To that end, in the fight for gender equality, within the scope of religious pluralism, legislation must begin by addressing sexist and racist structures within the state (education, housing, job discrimination to name a few) rather than attacking religious dress, as this only distracts from the overarching inequalities which affect both Muslim and non-Muslim women.

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