Dismantling the Defensive Wall of the Colonized: The Veil and the French Law on Secularity and Conspicuous Religious Symbols in Schools

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On October 22, 1989 thousands of French Muslims staged a demonstration in Paris in support of three Muslim students who were expelled from the Gabriel-Havez secondary school in the Creil municipality. The students’ only crime was that they wore headscarves while attending school, in defiance of the French Education Minister’s decree that banned wearing any “ostentatious religious insignia” (Seljuq, 1997; Kaitlin, 2007). Two political events make the year 1989 particularly significant related to the headscarf controversy: The Iranian leader Ayatollah Khomeini’s religious decree (fatwa) that was in fact a death sentence for the British writer Salman Rushdie on the occasion of publishing his novel *Satanic Verses*; and the Algerian Muslim militants’ killing of several French residents that rekindled a debate on Islam’s alleged violent nature (McGillion, 2004). Later in the 1990s, the Gulf War and its aftermath exacerbated the situation not only in France but all over Europe (Seljuq, 1997). In this highly charged and tense political environment the French public and the media interpreted the wearing of headscarf by French Muslim students as a religious-political statement in defiance of the French principles of separation of church and state. Furthermore, opponents of the headscarf also argued that the Muslim girls were co-opted by Muslim fundamentalist groups who intended to advance their militant political agenda (Begag and Chaouits, 1990).

The headscarf controversy continued in the 1990s amid public demonstrations and law suits. But the matter appeared to be settled in 1996, as an appeal court in the city of Nancy in two separate cases ruled in favor of seven female Muslim students of North African origin, ordering the French government to pay compensation to one student and allow the other six to return to school while wearing the headscarf. But their victory was short-lived, as public opposition to this alleged “Islamic militancy” continued and forced the French government in July 2003 to set up a special investigation commission on
religion. Headed by Bernard Staci, the commission heard hundreds of witnesses and published its report in late 2003 recommending twenty three measures to guarantee both the state’s neutrality on religion and the equality of religious faiths. In addition to proposed legislation to clarify acceptable religious garb in school, the report also recommended addition of Muslim and Jewish holidays (*Eid-al-Adha* and *Yom Kippur*, respectively) as public holidays; instruction of “religious facts;” teaching “non-state” languages such as Kurdish and Berber in addition to state languages like Arabic or Turkish; and the rehabilitation of “urban ghettos” where most French Muslim immigrants resided. Acting on the Staci Commission’s recommendations in late 2003 the then French President Jacques Chirac proposed a law for constitutional review which was subsequently passed in early 2004 by the French National Assembly by a large majority. But ironically, the proposed law only focused on legislation against “ostentatious religious signs and dresses” which according to the Ministry of Education “whose wearing in public schools leads to the immediate recognition of the wearer’s religious belonging, which is to say the Islamic veil, whatever name one calls it, the Jewish Kippa, or a cross of massive dimensions.” Yet despite the claim for the law’s universality, it clearly focused on the *hijab* or the head covering worn by Muslim women (Silverstein, 2004).

The law banning conspicuous religious symbols in schools became effective in September 2004. But despite divided public opinion its enforcement was rather uneventful. According to one survey taken before the law’s passage in February 2004, the law was favored by 69 percent of the population while 29 percent opposed it. Among the French Muslims, 42 percent were supportive of the law while 53 percent opposed it (Anon, 2004). Even among the French Muslim female population 49 percent supported it while 43 percent opposed the law. France is home to the largest Muslim population in Europe outside Turkey, about five million or 8.3 percent of the population (Silverstein, 2004: 3). However, according to an opinion poll taken after September 11, 2001 only about 30 percent of France’s heterogeneous Muslim community described themselves as “practicing Muslims;” and the majority of them, or about 58 percent were non-practicing Muslims who can better be described as French persons of Muslim origin (Sondage IFOP, 2001). This might be an explanation for an absence of mass protest after the law’s passage. In all, once the law was enforced in schools