

CASE STUDY

Universal ethics applied to the public wearing of religious attire in France

As a case study, let us consider Muslim women in France, who wish to wear certain religious identifiers. France, along with many other European countries, has been the home to adherents of Islam for centuries. As of mid-2016, Muslims represented roughly five percent of the total population in Europe.³⁹ With 5.7 million Muslims, France has one of the highest populations within Europe. The proportional percentage of Muslims living across Europe has been increasing, with a significant rate of growth projected to continue for the forthcoming decades. Projections of Muslims residing in Europe in 2050 range from 11.2 percent to 14.0 percent of the total population, with France potentially consisting of a Muslim population of 17.4 percent under medium-level estimates of migration.⁴⁰

The Muslim population in France is diverse in thought, practice, and culture, with a variety of different orientations and reactions to the various French bans on veils in public settings. The diversity of the Muslim population includes all facets of demographics, as they represent a range of ages, professions, educational backgrounds, political affiliations, citizenships, cultural identities, ages, and beliefs. When reporting on the intersection of their French residency and Muslim faith, the majority of French Muslims (72 percent) do not see a challenge between being a French resident and being a devout Muslim, similar

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to 74 percent of the general French public.⁴¹ In a 2016 survey of 1,029 Muslim people in France aged 15 and older, respondents were classified into three groups based on their responses. Of the respondents, 46 percent were categorized as either secularized or felt alignment between their Muslim culture or faith and contemporary France. In contrast, 26 percent of respondents could be categorized as wanting more ability to express their religious identity, but they accepted secularism, whereas 28 percent of respondents reported with greater opposition to the French secular values and felt disconnected from French society. Some of this group could be classified as seeing their faith as a rebellion to French society, as the group is made up of younger Muslims with less education and training and a higher percentage of unemployment.⁴²

France as a secular state

France's regulations on the adornment of religious attire in public environmental contexts have a significant historical legal precedent dating back to the early twentieth century. The French emphasis on *laïcité*, or secularism, grew increasingly important within the French context, in large part as a response to the Catholic Church's historical stronghold on moral issues nationally.⁴³

The French legal position on secularism originated with the Law of 9 December 1905. The law cemented the separation between Church and State through six chapters, which detail the principles for the division between Church and State, the 'assignment of property and pensions,' and public religious worship regulations.⁴⁴ The law is a crucial and defining legal backbone for French secularism, and its clarifications and interpretations of secularism continue to serve as legal precedent, as seen in subsequent legislation.

The legal protection of secularism advanced decades later, within the Constitution of 1958. One of the most relevant legal defenses of the secular state appears within the 1958 National Constitution's Preamble Article 1, which, along with the Law of 9 December 1905, has been cited as the legal basis for the string of recent, highly contentious regulations relating to Muslim veils and similar body coverings. The Preamble Article 1 of the Constitution of 1958 states:

France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs. It shall be organised on a decentralised basis.⁴⁵

Despite religion being framed as a personal freedom and a right of all citizens, the Article reaffirms France as a secular nation state first and foremost, which is meant to ensure equality and respect differences in beliefs. In order to uphold its protection as a secular state, French public buildings are regarded as 'neutral ground, where any religious or political symbolism is prohibited.'⁴⁶ Article 1 protects France's *laïcité* paradigm and views that religion must not have any place within public affairs. The freedom of religion in

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France is positioned as a human right, but never in isolation from other universal human rights. France therefore objects to a special status for religious freedom over freedom of conscience.⁴⁷

Secularism continues to play a significant role in all facets of public life in contemporary France. French public schools and offices do not allow students, employees, and visitors to wear religious attire. The public adornment of veils or other religious attire in public schools or buildings is viewed to be in direct conflict with the human right of freedom of conscience, which is defined by the Oxford Dictionary of English as ‘the right to follow one’s own beliefs in matters of religion and morality,’ including the choice not to practice a religion. Therefore, French protections of *laïcité* permit all people to practice religion and adorn religious attire within the appropriate context, such as in private homes and religious buildings. Context is key within the parameters of French laws dealing with secularism, as the separation between religious practices in public and private spheres ensures no conflict with the freedom of conscience, as outlined in the Constitution.

In looking to recent legislation related to *laïcité*, the concept itself was deliberated upon for the first time in the late 2004 Constitutional Convention, on occasion of France’s working toward fulfillment of the treaty establishing a constitution for Europe. In its landmark ruling, the Constitutional Council of France conferred legal recognition of the concept of secularism as defined by Article 1 of the 1958 National Constitution.⁴⁸ This decision also served to solidify the National Assembly’s early 2004 ban on religious symbols and coverings in schools (Law 2004–228).⁴⁹ It is upon this basis that subsequent derivative rulings and decrees have been upheld by French courts and governments, as well as the European Court of Human Rights and European Court of Justice in 2011, 2014 and 2017.

Despite France’s strong cultural and legal support of secularism, the bans have been met with both domestic and international criticism. The adornment of veils is noted within the Quran on three occasions, but the interpretations of what is meant by these excerpts varies significantly. The modern interpretations of the excerpts on veil adornment carry different interpretations from culture to culture. The modern translation an individual’s family or cultural community has on these excerpts can carry a significant influence as to whether a woman chooses to wear a veil or what type of veil she would choose to wear. A woman of Muslim faith chooses to wear – or not to wear – head or face veils based on her comfort and preferences, depending on her cultural background or that of her family.

Those in favor of individual cultural rights view the religious attire bans to be a form of discrimination and a limitation to individual and collective cultural expression and religious freedom. Some purport that regulations are sourced from fears of a minority culture and misunderstandings about the Muslim faith. For those women who wear hijabs, it is not only an expression of religious identity and modesty, but hijabs and other forms of head and face veils represent a sense of comfort and safety.

When looking towards why Muslim women in France report why they or other Muslim women wear veils, there are some common reasons reported. Within a 2016 survey, Muslim women who wear a veil compared to those who do not identified a sense of religious duty

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as the primary motivation of Muslim women to wear a veil at 76 percent and 66 percent, respectively.⁵⁰ Other motivations to wear a veil included a want to display their religious faith (23 percent of veil wearers and 44 percent of non-veil wearers), coercion and imitation (6 percent and 24 percent, respectively), and safety (35 percent across both groups).⁵¹ Other motivations of veil wearing might be related to community and personal identity.⁵² Community identity relates to a sense of wanting to show unity, affiliation, and solidarity with other women of the Muslim faith. Individual identity connects to how a woman views herself, how she wants to show herself to the world, and what she finds personally comfortable in her attire.

Within Western countries, the rapid growth of Muslim residents and migrants has been met with cultural misunderstandings and judgments. Beyond the argument of safeguarding the secular state, other prominent arguments for supporting regulation assert that regulations help (1) secure the safety of the women from harm and discrimination, (2) prevent feelings of distance from those who wear veils, and (3) promote the well-being of Muslim women.

The opposition to the public adornment of veils positions that they are not seeking to limit individual rights of religious expression and observance, but they are helping to prevent discrimination and harm. Those advocating for regulation purport that removing religious identifiers prevents discrimination, lessens the chance of poor or hateful treatment of these individuals, and safeguards secularism. For example, French Muslims report higher instances of negative incidents related to their ethnicity or faith (37 percent), compared to those in other countries of Western Europe (Britain 28 percent, Spain 25 percent, and Germany 19 percent).⁵³ Those supporting regulation assert that this perspective is in the best interest of everyone to prevent discrimination and incidences of violence.

The second prominent argument is that those interacting with women wearing veils struggle to feel connected with the individual adorning the veil. Particularly with regard to the reactions to the wearing of face veils, such as niqabs and hijabs, there is a cultural perception of personal distance created through covering portions of the face. This perspective has been seen internationally in both Muslim-minority countries, like France, and Muslim-majority countries (including in the aforementioned cases in Egyptian universities and university hospitals).

The third argument claims to be founded on a modern, Western perspective of women's rights, stating that some feel as though veils support the oppression of women. Regulating the adornment of hijabs, niqabs, and other veils in public contexts may be seen as an effort to support a Western perception of women's rights or liberation and, thus, the 'well-being' of the women affected by the regulation. To this end, Muslims' treatment of women has especially been an area of concern for non-Muslims. From a 2011 Pew survey, there is a median national average of only 22 percent of non-Muslims within Western Europe, Russia, and the United States who report that Muslims were respectful of women.⁵⁴ The

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results indicate a large distrust of Muslims in how they treat and regard both Muslim and non-Muslim women. Even though this argument can be seen as ethical imperialism, the strength of these sentiments is important to note, as it likely carries some degree of influence on Western societies' view of the practice of wearing face and head coverings.

How UDHR addresses issues of religious belief

What complicates our case is how text from the UDHR can be used to argue for both the pro-secular and pro-religious positions. When reviewing UDHR, leaders (advocates for secularism and regulating some public adornment religious identifiers) might start by citing Article 3, 'Everyone has the right to life, liberty and security of person.'⁵⁵ Leaders may argue that aligns with the French Constitution of 1958, in that the Constitution views the liberty and security of persons to be supported by the existence and protection of a secular state. Under this interpretation, residents would have the freedom to their beliefs but with the security of not persecuting, or being persecuted by, others.

Both the leader and the follower would cite Article 18 as the most direct article on this issue. Article 18 of the UDHR states that:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and 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.⁵⁶

Note that Article 18 does not explicitly and directly address the adornment of religious identifiers. So, the preferred interpretation of the leader might focus on the individual freedom to religious choice and to practice and teach religion freely. For the pro-secular view, the French Constitution supports the religious rights stated in Article 18, while balancing Article 3's rights of liberty and security.

Those who advocate for religious freedom of expression would likely present a stricter interpretation of UDHR's Article 18. In its statement that an individual has the right to 'manifest his religion or belief in teaching, practice, worship and observance,' the adornment of religious identifiers (including veils) could be considered part of religious observance. For the follower, religious observance relates to the honor and attainment of moral requirements, which includes the adornment of veils. Because Article 18 explicitly references the right to religious observance in public, religious adherents could claim this would put the legal bans as being in violation of Article 18 of UDHR.

If in agreement with the stricter interpretation of Article 18, there is a further problematic article, Article 7, which, in part, states:

All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.⁵⁷

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If Article 18 is to be understood as protecting the wearing of religious identifiers, a limitation on the freedom of religious observance would be a violation of Article 18 and would also be eligible for protection against a ban, as a declaration of cultural discrimination, under the protections of Article 7. Arguably under a more liberal interpretation of Article 18, as viewed by the proponents of the bans, French leaders could point to the French Constitution as being in line with Article 7, as the Constitution already ‘ensures the equality of all citizens before the law, without distinction of origin, race or religion.’⁵⁸

The two different interpretations of Article 18 by the case’s leader and follower are the central issue as to how UDHR is both (1) potentially a problematic representation of universal ethics and (2) falling into some of the greater criticisms of universal ethical values as a practical lens for leadership. To the former point, the follower might raise the criticism of UDHR being representative of Western values, therefore, being a form of cultural imperialism, rather than universal ethics. To the latter point, this disagreement could support the argument that universal values are not worth attempting, as cultural differences are strong and universals among cultures may not even exist.

These different interpretations demonstrate how enforcement of universals are a work in progress and need to be revisited over time. Since the time of the drafting of UDHR, cultural intersections have become much more common within many Western countries. For example, France’s Muslim population grew from approximately 0.55 percent of the country’s population in 1950/52 to a projected 10 percent in 2020.⁵⁹ The commitment to revisit, discuss, and revise existing understandings of universal ethical values is a critical part of the process. Therefore, under a universal ethics approach, it might be appropriate to revisit UDHR again, in order to consider its critiques and to compare its values with those presented within the other existing declarations of universal human rights.

Five component analysis applied to the wearing of religious attire in France

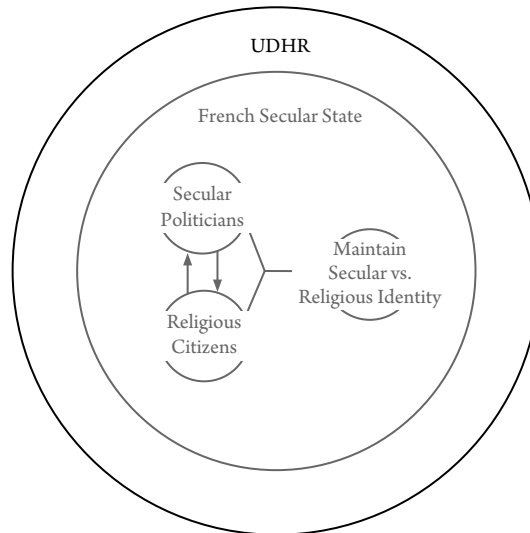
As a final analysis of the case, this section revisits the five components in light of the presented case. Each subsection will review the role, perspective, and challenges of the case’s leader, follower, goal, context, and larger culture under a universal ethics lens.

The leader and follower roles can get blurred with universal ethics. In one sense, the ‘leader’ is actually just following and enforcing the universal ethic, similar to their role in divine command and Kantianism. Within the presented case, the ‘leader’ generally refers to the policy makers and political leaders at all levels who are responsible for upholding the French Constitution and enforcing French law. This case poses two primary questions for the leader, ‘are the enforced universal values truly universal?’ and ‘how does the leader reconcile cultural differences within a universal ethics approach?’

The notion of followers within a nation-wide example, can also be somewhat unclear. The presented case focuses on the Muslim communities in France, who support some degree of public religious expression through the adornment of head or face veils.

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Figure 6.3 The Five Components of Leadership Model applied to the wearing of religious attire in the France case study



Even within this focused group, there is still significant diversity of opinion. Across the highlighted follower group, the followers had to become advocates for themselves or their peers to make sure their perceived rights of religious observance were respected (for empowered followership, see Chapter 14). When looking beyond the highlighted follower group, those who support strongly French secularism also have basic rights that need to be protected according to the UDHR. In this case, the follower is concerned with questions such as: 'Who enforces universal values?' 'How can the followers' voices best be heard when confronting cultural differences?' and 'How can followers effectively raise concerns and criticisms of existing universal frameworks, such as UDHR?'

The presented case has two goals that are seemingly in conflict with one another. The goal for the French leader is to protect the country's secular identity and its citizens against any form of harm or discrimination. In contrast, the desire of the focal follower group is to maintain their religious identity and observance through wearing veils. While the group's goals are in opposition, they could both appeal to the UDHR. The primary question for the case's goal would center on which interpretation of UDHR's Article 18 is accurate: that of the pro-secular leader or the pro-religious followers.

The context is secular France, which is experiencing increased stress from navigating the increasing cultural difference within the country, including a significant growth in the country's Muslim population. Being within Europe, France has historically both witnessed and experienced some of the world's most devastating religious wars, conflicts, and discrimination, which in turn, ignited and enforced its secular identity and protections. Because of the horrors of the Second World War, the country moved toward relativism as

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part of its post-war identity, opening its borders to more immigrants from cultures outside of the European continent than it had before in recent history. To this end, the leader and followers should reflect on how this context can embrace what are becoming competing values of secularism and religious liberty.

As mentioned in the context discussion, multiple cultural forces are at work in the larger culture. The competing norms and values existing within the French case include secularism, religious identity, protections of minorities, and the rights guaranteed by UDHR, among others. Both the leader and the followers point to the aforementioned cultural values as informing their goal and their beliefs and actions associated with the goal and its attainment. From a practitioner perspective, it appears that leaders and followers can look to resources in the larger culture like the UDHR for guidelines on how they engage with each other. However, the struggle is that while UDHR may provide some broad guidelines, other cultural and context issues make it difficult to clearly and consistently apply these guidelines. Using UDHR as a starting point rather than a conclusion, the leader and followers should engage in dialogue to find their common universal ethical values and reflect on the challenges of their held norms and values within the French context.