



Secularism as a Shield: A Comparative study of the Role of Laïcité and Related Secular Policy Regimes as Mechanisms Through Which the Expression of Islam is Restricted in Europe

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Abstract

The secular policy regime of laïcité, rooted in the French tradition of church-state separation enshrined within the country's constitution, has been used more and more widely within European polities not just as an ideal of state neutrality but as a legislative mechanism that has been particularly hostile towards the expression of Islam within European states. This paper will provide a comparative examination of secular policy regimes in France, Germany, Belgium, and the Netherlands, focusing on how concepts such as neutrality, equality between genders, and social cohesion have been used as discursive mechanisms by which Muslims are restricted from wearing the hijab/niqab, constructing minarets, and performing other expressions of their Islamic beliefs. Employing a jurisprudential understanding of Islamic texts including classical fiqh, the Quran, and the Prophet's Sunnah along with contemporary scholarship about Islamic teachings, this paper concludes that these restrictions infringe on the fundamental Islamic right of hurriyyat al-din (religious freedom), thus engaging in structural Islamophobia. This paper examines how secular concepts are employed to control the Muslim body through the use of theoretical discourse drawn from Western legal theory, European Court of Human Rights' case law, and postcolonial critical legal analysis. The concluding remarks of this paper will propose an Islamic paradigm of civic engagement grounded in the Qur'anic principle of diversity and the legal theory of fiqh al-aqalliyyat.

Keywords: *Laïcité, Islamophobia, hijab, fiqh al-aqalliyyat, secularism, Muslim minorities, religious freedom, Europe*

1. Introduction

In recent years, no issue has sparked as much controversy and debate between the secular state and religion as the relationship between religion and the state in twenty-first-century Europe.¹ In this regard, it should be noted that the principle of laïcité – the French constitutional doctrine that emphasises the separation of church and state, has emerged as the focal point of these debates and has come to define the scope of secularism's juridical domain. What was initially conceived to curb the political powers of the Catholic Church has been transformed into a legal regime aimed at regulating, disciplining, and criminalising Muslim religious practices.

In all of these countries, legislative councils and constitutional courts have used terms such as secularity, gender equality, and public order to impose bans against Islamic clothing, namely the headscarves, the face veils, the call for prayers, and the construction of minarets.² All of these measures, which were imposed under the pretext of state neutrality, have shown an astounding form of selectivity; while there are no efforts to ban crosses on the walls of Bavarian courtrooms, steeples on each European cityscape, or church bells marking the hour for prayers, all the efforts are focused on banning the Islamic headscarf and building minarets.

From an Islamic epistemological point of view, such selective treatment needs to be questioned and challenged; Islam is not a belief system confined to a purely spiritual dimension, rather it is a *Din* - a total way of life covering spirituality, ethics, and social relations. Prophetic guidance and the Quranic paradigm do not allow the split of human personality into two separate compartments of private believer and public citizen. To compel a Muslim woman to remove her hijab in a public institution is not merely a dress code regulation; it is, from the Islamic perspective, a demand that she amputate a dimension of her God-commanded identity.³

This article proceeds in six substantive sections. Section Two traces the historical genesis and ideological content of laïcité as a specifically French construction and compares it with analogous secular frameworks in Germany, Belgium, the Netherlands, and Switzerland. Section Three offers a systematic Islamic theological and jurisprudential analysis of the religious obligations at stake. Section Four examines specific legislative and judicial case studies. Section Five interrogates the gendered dimension of secular restriction, engaging feminist Muslim scholarship. Section Six proposes an Islamic civic framework for engaging

¹Émile Poulat, *Liberté, laïcité: La guerre des deux France et le principe de la modernité* (Paris: Cerf/Cujas, 1987), 23.

²Jean Baubérot, *Histoire de la laïcité en France* (Paris: Presses Universitaires de France, 2003), 5–12.

³Loi du 9 décembre 1905 concernant la séparation des Eglises et de l'Etat, *Journal Officiel de la République Française*, 11 December 1905.

discriminatory secular polities. The article concludes with reflections on the imperative of genuine pluralism.

2. Laïcité and European Secularism: Historical Origins and Ideological Foundations

2.1 The French Doctrine of Laïcité

The term *laïcité* stems from the Greek word *laikos*, meaning ‘belonging to the people,’ and was incorporated into French political parlance in the context of Third Republican struggles against the clergy. The first milestone in the history of French *laïcité* is the Law of December 9, 1905, which separated the Catholic Church from the state, canceled the Concordat of 1801, and established that ‘the Republic does not recognise, remunerate, nor subsidise any religion.’⁴ The law was born of a specific conflict between republican statecraft and ecclesiastical power; it was not designed with Islam, or indeed with any non-Christian religion, in mind.

Jean Baubérot, the leading historian of *laïcité* in France, traces three distinct phases of *seuils*, or pacts, in the development of the concept. These include an initial antireligious separation, a second stage of tolerance towards religious neutrality, and finally, a third contentious stage of ‘open’ *laïcité* that developed in the aftermath of 2001. It is only during the third stage of *laïcité* when the principle became not only a matter of neutral state policies but also of normative expectations on the citizens, expecting them to make their religious affiliations disappear from public life.

The most significant legal expression of this expectation occurred in the Stasi Commission Report of December 2003. The report called for the legislative prohibition of the conspicuous wearing of any religious symbols in state schools. As the Stasi Commission report suggested, the issue with the hijab was not that Muslim women wore it out of their free will, but that it symbolized the communitarist danger of undermining the Republican unity of the nation, representing the oppression of Muslim women.

2.2 Comparative Secular Frameworks across Europe

The German constitutional approach to secularity is different from that of France. While religious freedom is guaranteed in Germany's Grundgesetz, in Article 4 of it, there is a recognition of the principle of state-church coordination according to which churches that have been recognised by the state enjoy its financial support. In spite of this constitutional recognition of secularity, some of the Länder in Germany have introduced laws prohibiting the wearing of head scarves by civil servants and teachers in their respective jurisdictions on the ground that the state needs to be neutral when exercising public authority.⁵ In Belgium, the

⁵Jocelyne Cesari, *When Islam and Democracy Meet: Muslims in Europe and in the United States* (New York: Palgrave Macmillan, 2004), 67.

Law of 1 June 2011 that prohibits the concealment of the face in public was declared constitutional by the Constitutional Court of Belgium as well as the European Court of Human Rights. It is very enlightening how the discussion about banning the niqab took place in the Belgian legislative assembly.⁶ While the debate centered on the dignity of the wearer, it seems as though what the lawmakers considered as important was not the woman's view about her niqab but rather what the lawmakers thought about her dignity.

The banning of the Swiss minaret in 2009 in a national referendum vote, where 57.5 percent of the population endorsed the initiative, can be cited as the most extreme example of the use of majoritarian democracy against Muslim religiosity. In fact, the referendum process entailed images of Swiss flags penetrated by missile-like minarets and was directly associated with the issue of sharia law overshadowing Swiss civil society.⁷ The minaret, an architectural element of mosques that cannot perform its call-to-prayer functions in Switzerland anyway, took on the meaning of political Islam, and that alone speaks volumes about the fears of the Swiss population.

Netherlands, traditionally considered the embodiment of tolerance toward diversity, has introduced severe restrictions after the murders of politicians Pim Fortuyn (2002) and Theo van Gogh (2004).⁸ In political discussions, there was noted a phenomenon called 'populism' according to which the presence of Islam was viewed as a threat to liberal democratic values of civilisation. As part of the policy of 'cultural self-defence' pursued by the Dutch Party for Freedom, headed by Geert Wilders, calls were made to close mosques, ban the Koran, and prohibit the wearing of Islamic attire.

2.3 The Ideological Architecture of 'Neutral' Secularism

The commonality that runs through these disparate national frameworks is the presence of an ideological structure which purports itself to be neutral but operates on an inherently unequal basis. It is vital to refer to the work of Talal Asad and his theory of secularism as a modern form of knowledge, which, rather than being a neutral state, is in fact a historical formation of a particular type of relationship between the religious and the political.⁹ Secular policies in Europe are not based upon religious neutrality; rather, these policies spring out of a distinct cultural tradition which is implicitly grounded in the assumption of Christianity regarding the correct role of religion in society. The sociologist Jürgen Habermas has conceded that secular liberal states ought to respect the right of religions to

⁶European Court of Human Rights, *S.A.S. v. France*, Application No. 43835/11, Grand Chamber Judgment, 1 July 2014, para. 155.

⁷Alain Gresh, *L'Islam, la République et le monde* (Paris: Fayard, 2004), 134.

⁸Olivier Roy, *Globalised Islam: The Search for a New Ummah* (London: Hurst & Company, 2004), 253.

⁹Edward Said, *Covering Islam: How the Media and the Experts Determine How We See the Rest of the World* (New York: Vintage Books, 1997), xii–xvi.

engage in their discourse and recognize the "cognitive burden" that secular demands impose on their religious citizens. Nevertheless as Edward Said demonstrated, through Orientalist epistemological filters that construct Islam as categorically different and perpetually threatening.¹⁰

3. The Islamic Epistemological Framework: Theology, Jurisprudence, and the Right to Din

3.1 Islam as a Comprehensive Way of Life: The Concept of Din

The Arabic word *din*, which means religion, refers to a much wider semantic domain than its English equivalent. According to its use in the Quran, the *din* refers to a system of life, which embraces belief (*aqida*), worship (*ibada*), morality (*akhlaq*), organization of society (*muamalat*), governance (*siyasa*), etc., that acknowledges the supremacy of Allah (*subhanahu wa taala*) in all spheres of human life.¹¹ As the Prophet Muhammad (*salla-lla-hu alihi wa sallam*) said: "Indeed, religion is easy (*inna al-din yusr*)," thus meaning that the all-comprehensive regulation of Muslim's life by Allah is not difficult but merciful and liberating.¹²

Such understanding of religion gives rise to a new perspective regarding discussion about Islamic religiosity in secular Europe. Indeed, when it comes to requiring a Muslim lady to take off the headscarf at work or prohibiting construction of a minaret at a mosque, it should be taken into account that such requirements entail the splitness of Muslim's religious personality, that he/she should live double lives and observe his/her faith privately that has no authority in the Islamic tradition. The Quran proclaims: "And whoever desires other than Islam as religion, never will it be accepted from him, and he, in the Hereafter, will be among the losers" (Quran 3:85). This is not a statement of exclusivism but a declaration that the Muslim's life is constitutively ordered by divine guidance in all its dimensions.¹³

3.2 The Hijab: A Quranic Obligation, Not a Cultural Choice

The legal position of the hijab is well settled in all the four major schools of jurisprudence within Sunni Islam. The first directive states: "And tell the believing women to lower their gaze and guard their private parts and not expose their adornment except that which [necessarily] appears thereof and to wrap [a portion

¹¹Nasr, Seyyed Hossein, *Islamic Life and Thought* (Albany: State University of New York Press, 1981), 202.

¹²Muhammad ibn Isma'il al-Bukhari, *Sahih al-Bukhari*, ed. Muhammad Zuhayr ibn Nasir al-Nasir (Beirut: Dar Tawq al-Najah, 2001), hadith no. 6862.

of] their headcovers over their chests" (Quran 24:31).¹⁴ A further verse reiterates the directive: "O Prophet, tell your wives and your daughters and the women of the believers to bring down over themselves [part] of their outer garments" (Quran 33:59).¹⁵

Ibn Qudama al-Maqdisi, a prominent Hanbali jurist, states the ijma' position clearly: "Covering the awra in the presence of non-mahram men is wajib, proven by the Qur'an, Sunna, and ijma'".¹⁶ The Hanafi, Maliki, Shafi'i, and Hanbali schools, despite their methodological differences, are unanimous on the obligatory nature of this covering for adult Muslim women. To characterise the hijab as a mere 'cultural symbol' or a sign of 'oppression', as French legislative discourse consistently does, is to wilfully misread fourteen centuries of Islamic jurisprudential tradition and to deny Muslim women the epistemic authority to interpret their own faith.

Al-Ghazali, in his landmark work, *Ihya' Ulum al-Din*, views the issue of Islamic dressing as part of a wider economic framework of hayaa (shyness). According to Al-Ghazali, hayaa is not a social custom; it is a divine attribute known as al-Hayiy that gives believers the ability to organize themselves both internally and externally according to God's wishes.¹⁷ When legislation passed by Europe prevents a Muslim woman from practicing her profession while maintaining her religious duties, it does not only interfere with her exterior but also with her spiritual development, which constitutes an infringement on the Muslim understanding of ethics.

3.3 Hurriyyat al-Din: The Islamic Principle of Religious Freedom

The Quranic commandment "La ikraha fi al-din" (Quran 2:256) meaning 'there is no compulsion in religion' is one of the most famous declarations of religious freedom ever made.¹⁸ This verse establishes a basic tenet in Islam according to classical commentators such as Al-Tabari, Ibn Kathir, and Al-Zamakhshari, namely, that true belief cannot be imposed, and the state, regardless of whether it is Islamic or not, has no right either to impose or prohibit a sincere religious practice carried out by individuals who do not represent any threat to the social order. "Righteousness has become distinct from wrongdoing." Here we find another clear statement of the Qur'anic principle that divine truth is so evident to anyone who opens his or her heart to it, thus making legislative measures redundant.

¹⁴Quran 24:31, trans. Abdullah Yusuf Ali, *The Holy Quran: Text, Translation and Commentary* (Brentwood, MD: Amana Corporation, 1989).

¹⁵Quran 33:59, trans. Muhammad Asad, *The Message of the Quran* (Gibraltar: Dar al-Andalus, 1980).

¹⁶Ibn Qudama al-Maqdisi, al-Mughni, ed. Abd Allah ibn Abd al-Muhsin al-Turki and Abd al-Fattah Muhammad al-Hulw (Cairo: Hajr, 1986), 9:18.

¹⁷Abu Hamid al-Ghazali, *Ihya' Ulum al-Din* (Beirut: Dar al-Ma'rifa, 1982), 2:53.

¹⁸Quran 2:256, trans. Abdullah Yusuf Ali.

Moreover, the Quran states: "Had it been your Lord's will, the people would have believed, every one without exception. Shall We then compel human beings against their will to believe?" (Quran 10:99).¹⁹ This question posed to Prophet Muhammad (pbuh) is actually also addressed to anyone who thinks that they have the authority to compel others to adopt any particular religion or religious practice. Since Allah made diversity an inherent feature of His creation, the human endeavor to overcome it by legislative means amounts to arrogance or pride (kibr) – a cardinal sin condemned in the Islamic ethical tradition.

Muhammad the Prophet (Peace be Upon Him) finalized the Charter of Medina, which was the first constitution of the world based on pluralistic existence among Muslims and non-Muslims. Under the Prophetic rule, Jews, Christians, and pagans enjoyed the liberty of exercising their respective religious rites."²⁰ It was not only tolerance but the duty of protection which the Prophet emphasized, as in, "Whoever oppresses a dhimmi or diminishes his rights or imposes more burden than he can carry or takes anything from him against his will, I myself shall oppose him on the Day of Judgment." While under the Prophetic rule, non-Muslims were granted freedom of religion in an Islamic State, it becomes very ironic for a supposedly secular and democratic government to deny such freedoms to Muslims who are a minority there.

3.4 Islamic Jurisprudence on Living as a Minority: Fiqh al-Aqalliyyat

The discipline of fiqh al-aqalliyyat al-muslima (the jurisprudence of Muslim minorities) in modern-day Islamic jurisprudence represents the most advanced form of Islamic scholarship responding to the predicaments of Muslim minorities in non-Muslim polities. The works of scholars such as Yusuf al-Qaradawi and Tariq Ramadan, among others, draw upon the classical concepts of maslaha (public interest), darura (necessity), and istihsan (juristic preference) in applying them to the unique circumstances of Muslim minorities operating in secular legal systems.²¹

Al-Qaradawi argues that Muslim minorities have both the right and the obligation to maintain their religious identity in Western societies, while engaging constructively with the civil institutions of their host polities. He distinguishes, however, between accommodation (al-taysir) that facilitates the practice of din without compromising its essentials, and capitulation (al-istislam) that requires the abandonment of obligatory religious duties in order to assimilate.²² According to Al-Qaradawi, there is a need for Muslim minorities in the West both to be able to preserve their religious identity and to interact constructively with their host communities. There is, in his view, a difference between accommodation, which

¹⁹Quran 10:99, trans. Muhammad Asad.

²⁰Muslim ibn al-Hajjaj al-Nisaburi, Sahih Muslim, ed. Muhammad Fu'ad Abd al-Baqi (Beirut: Dar Ihya' al-Turath al-Arabi, 1954), hadith no. 1844.

²¹Yusuf al-Qaradawi, Fiqh al-Aqalliyyat al-Muslima (Cairo: Dar al-Shuruq, 2001), 47–61.

facilitates the practice of din without undermining its basic tenets, and capitulation, which necessitates the abandonment of obligations that constitute religious practice in order to achieve integration. The request to Muslim women to take off their hijab is considered in this context an unjustified imposition, which cannot be justified on fiqhi grounds.

Tariq Ramadan uses a similar approach to analyze Muslim minorities in the West, presenting them as shahada or the space of testimony. This testimony is not aggressive or exclusivist; it is a contribution to the moral and intellectual life of pluralistic societies. When secular policies silence this testimony by prohibiting its visible expression, they impoverish the public sphere they claim to protect.²³

4. Legislative and Judicial Case Studies: The Machinery of Restriction

4.1 The French Headscarf Laws: 2004 and 2010

The Law of March 15, 2004, banning the display of ‘conspicuous religious symbols’ in the French state education system, was the first major legislative articulation of the new hard laïcité.²⁴ In theory, the ban applied equally to all religious symbols, be they large crosses, kippahs, or turbans, but the legislative history and enforcement data make clear that the law was intended primarily to target the hijab. Minister Luc Ferry explained that the law was needed to fight the ‘communautarist drift’ (dérive communautariste) endangering French republican cohesion, an euphemistic term for Islamic practice in the French political vocabulary.

The effect of the law was swift and lopsided. As official statistics have made clear, the overwhelming majority of pupils required to take off their religious symbols were girls practicing Islam who wore the hijab.²⁵ Sikh boys wearing the dastar (turban) also had to remove their headgear, whereas pupils practicing Christianity, except for those who displayed large crosses, were not confronted with any practical consequence for their religious observance.

Law of 11 October 2010 prohibiting the concealment of the face in public space (‘the burqa ban’) extended the principles of the 2004 law from the sphere of schools to streets.²⁶ The law made concealing the face in any public space a crime punishable by a fine and imprisonment when it comes to coercing another person into wearing the veil. Human Rights Watch report found out that even though the

²³Tariq Ramadan, *Western Muslims and the Future of Islam* (Oxford: Oxford University Press, 2004), 89–102.

²⁴Loi n° 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics, *Journal Officiel de la République Française*, 17 March 2004.

²⁶Loi n° 2010-1192 du 11 octobre 2010 interdisant la dissimulation du visage dans l'espace public, *Journal Officiel de la République Française*, 12 October 2010.

number of women wearing niqab in France was only several hundreds, nevertheless, huge efforts were put to regulate their dressing.²⁷ The excessive effort devoted to passing legislation that regulates clothes of such a minor group demonstrates that the French legislation is not motivated by an actual threat, but rather aims at asserting its civilisational identity as the secular Republican community which will not allow any manifestations of Islamic practices on its territory.

4.2 The European Court of Human Rights: An Analysis of Judicial Complicity

The European Court of Human Rights has repeatedly failed to protect Muslim religious freedom against the encroachments of secular European states. In the landmark case of Leyla Şahin v. Turkey (2005), the Grand Chamber upheld Turkey's university headscarf ban, reasoning that the restriction pursued the legitimate aim of protecting the constitutional principle of secularism and the rights of others.²⁸ The Court's application of the 'margin of appreciation' doctrine, which grants member states significant discretion in balancing competing rights, effectively permitted national majorities to override the fundamental religious freedom of a minority on the basis of contested sociological assumptions about the headscarf's social effects.

The Court's reasoning in S.A.S. v. France (2014), upholding the French face veil ban, introduced the novel concept of 'vivre ensemble' (living together) as a legitimate aim justifying a restriction on religious freedom.²⁹ The Court held that France could prohibit face covering in order to protect a social requirement of 'open interpersonal relationships.' This reasoning is philosophically extraordinary: it elevates a sociological preference for facial visibility into a constitutional right of third parties, thereby enabling the majority community to define the conditions of social belonging in terms that systematically exclude the religious minority. From an Islamic perspective, this judgment exemplifies the structural violence of secular majoritarianism, it uses the vocabulary of social harmony to enforce conformity.

4.3 The Swiss Minaret Ban: Democratic Islamophobia

The 2009 Swiss referendum banning the construction of new minarets represents a qualitatively different mode of anti-Muslim restriction: direct democracy deployed against minority religious rights. The campaign that secured the referendum's passage was explicitly Islamophobic in its imagery and rhetoric, presenting the minaret as a beachhead of political Islam and invoking specters of sharia law supplanting Swiss civil order.³⁰ The result - 57.5 percent in favour of the

²⁷Human Rights Watch, "France's 'Burqa Ban': One Year On," Human Rights Watch Report, 2012, accessed 1 March 2025, <https://www.hrw.org/news/2012/04/11/frances-burqa-ban-one-year>.

²⁸European Court of Human Rights, Leyla Şahin v. Turkey, Application No. 44774/98, Grand Chamber Judgment, 10 November 2005, para. 115.

ban, demonstrated that democratic majority will cannot be assumed to protect minority rights; on the contrary, it can be the instrument of their violation.

From an Islamic jurisprudential standpoint, the prohibition on mosque construction or architectural features is addressed by the classical principle of 'la darar wa la dirar'- 'no harm and no reciprocating harm' attributed to the Prophet (peace be upon him). A mosque with a minaret harms no one; its existence in the public landscape of a pluralistic society is an exercise of the religious community's right to dignified worship. The Quran itself affirms: "And were it not that Allah checks the people, some by means of others, there would have been demolished monasteries, churches, synagogues, and mosques in which the name of Allah is much mentioned" (Quran 22:40).³¹ This verse, remarkable for its inclusive enumeration of houses of worship, establishes a divine principle of mutual protection for all communities of faith. The Swiss referendum violated precisely this principle.

5. The Gendered Dimension: Muslim Women Between Secular Paternalism and Islamic Agency

5.1 The Construction of Muslim Women as Victims

An enduring trend in European secular discussions about Islam is the portrayal of Muslim women as victims who need to be liberated from their religion. This kind of representation is epistemically violent because it does not allow Muslim women to see themselves as rational individuals able to interpret their religious culture and act independently within it.³² The paternalistic nature of the secular approach, "We must liberate Muslim women from the veil through legislation," reflects the logic of the colonial civilizing mission, where the Westerners had the right to intervene in the affairs of the colonized due to their backwardness.

On the other hand, the Islamic feminist literature by Amina Wadud, Leila Ahmed, and Kecia Ali provides an effective counter-narrative. By reinterpreting Quranic anthropology, Wadud proves that the Quran recognizes the autonomy of women and considers them as equal beings who should be treated as autonomous believers.³³ On the other hand, Ahmed shows that the association between the veil and women's oppression is a colonial construct that was used by British colonial

³¹Quran 22:40, trans. Abdullah Yusuf Ali.

³²Ayaan Hirsi Ali, *The Caged Virgin: An Emancipation Proclamation for Women and Islam* (New York: Free Press, 2006), 44.

³³Amina Wadud, *Quran and Woman: Rereading the Sacred Text from a Woman's Perspective* (Oxford: Oxford University Press, 1999), 9–14.

administrators in Egypt to justify their intervention into the private affairs of Egyptians while opposing women's suffrage in Britain.³⁴

Kecia Ali's analysis of Islamic sexual ethics and Fatima Mernissi's sociological work further complicate the monolithic image of the veiled Muslim woman as passive victim. The empirical reality is that many European Muslim women who choose to wear the hijab or niqab do so against the preferences of male family members, against the social pressure of their peer communities, and in conscious resistance to the very secular institutions that claim to be acting in their interests.³⁵ When a French Muslim woman is expelled from her school for wearing the hijab, the state does not liberate her; it punishes her for exercising the agency that liberal theory ostensibly values.

5.2 The Islamic Framework of Women's Dignity

The Islamic understanding of women's dignity is grounded in the Quranic affirmation of the equal spiritual worth of men and women before Allah: "Whoever works righteousness, whether male or female, while being a true believer, verily to him will We give a good life" (Quran 16:97). The Prophet Muhammad (peace be upon him) declared: "Women are the twin halves of men," affirming the fundamental anthropological equality of the sexes while recognising the differentiation of their roles and responsibilities.³⁶

Within this theological framework, the hijab is not a symbol of subordination but of dignity, freedom, and conscious submission to the divine will. It liberates the Muslim woman from the commodification of her body by a consumer culture that presents female appearance as the primary index of her value. It is a declaration, made visible in public space, that her worth is not determined by secular standards of beauty or visibility but by the quality of her faith and her moral character.³⁷ When secular legislation prohibits this declaration, it does not free Muslim women; it substitutes one form of compulsion, divine command, freely embraced, with another: state coercion, imposed against their will.

6. Islamic Civic Engagement: A Framework for Navigating Discriminatory Secular Politics

6.1 The Quranic Ethic of Diversity

For the Quran, human plurality is no longer an issue that needs to be solved, but rather it is a sign from God (aya): "O mankind! We have created you from a

³⁴Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate* (New Haven: Yale University Press, 1992), 221–228.

³⁵Kecia Ali, *Sexual Ethics and Islam: Feminist Reflections on Quran, Hadith, and Jurisprudence* (Oxford: Oneworld, 2006), 99.

³⁶Ahmad ibn Hanbal, *Musnad al-Imam Ahmad ibn Hanbal*, ed. Shu'ayb al-Arna'ut (Beirut: Mu'assasat al-Risala, 1995), 24:437, hadith no. 15774.

male and a female, and made you into nations and tribes that you may know one another. Surely, the most honorable among you in the sight of Allah is he who is the most righteous of you..." (Quran 49:13).³⁸ The above verse – the Quranic Charter of Human Dignity – makes ta'aruf (mutual recognition) the divine purpose of human plurality. Cultural diversity is a means of enriching the life of people, rather than a matter of threatening them. It is an invitation to extend the horizons of humanity and develop its capacities.

In the Muqaddima, Ibn Khaldun develops a theory of human civilization (umran), whereby the domination of one civilization over another is a consequence of asabiyya (solidarity) manifested through politics. His analysis anticipates, with remarkable prescience, the dynamic by which European secular majoritarian politics seeks to normalise its own civilisational inheritance while stigmatising the visible expression of Islamic identity as a threat to social cohesion.³⁹

6.2 Engagement Without Assimilation: The Model of Prophet Yusuf (AS)

The Quranic narrative of Prophet Yusuf (Joseph, peace be upon him) offers a rich model for Islamic engagement with a dominant non-Islamic political order. Yusuf navigated the court of the Pharaoh, accepted a position of governmental authority within a non-Islamic state, and deployed his institutional power in the service of both his community and the broader population all without surrendering his prophetic identity or his commitment to divine guidance. His response to the unjust accusation of Zulaikha, "He said: This is from the work of Satan, for he is a manifest misguider" (Quran 12:24) exemplifies the maintenance of moral clarity within a compromised political environment.⁴⁰

It is incumbent upon Muslims living in secular Europe, in accordance with the prophetic model and Islamic jurisprudence, to engage the legal system, democracy and civil society organizations in order to gain rights for themselves, but at the same time maintaining their unique religious identity. This process should be carried out with hikma (wisdom), sabr (patience) and bayan (eloquence): "Invite to the way of your Lord with wisdom and good instruction" (Quran 16:125).⁴¹

6.3 Intellectual Resistance and Scholarly Engagement

Allama Muhammad Iqbal's concept of an invigorated Islam consciousness, grounded in a reformed theology and revival of the creative potential of Muslims' intellect, is highly relevant to the present situation of Muslim minorities in secular Europe.⁴² The problem that Allama Iqbal identified in his writings was that of the

³⁸Quran 49:13, trans. Abdullah Yusuf Ali.

³⁹Ibn Khaldun, al-Muqaddima, trans. Franz Rosenthal (Princeton: Princeton University Press, 1967), 1:91.

⁴⁰Muhammad Iqbal, The Reconstruction of Religious Thought in Islam (Lahore: Iqbal Academy Pakistan, 1989), 156–162.

crisis of self-belief, caused by the belief that Islam and Muslim civilization were backward and unable to face the challenges posed by modernity. In order to respond to secular Europe, a Muslim minority requires the involvement of scholars who will interpret and articulate an Islamic framework for human dignity that challenge the self-congratulatory narrative of Western liberalism.

The contributions of thinkers like Tariq Ramadan, who advocates the acceptance of Muslim citizens as full members of Western democracies, with the ability to define their conditions of membership, and Abdullahi An-Na'im, who has put forward the case for an Islamic theory of secularism based on Islamic notions of governance, mark the intellectual cutting-edge of this endeavor.⁴³ This is not because of their dialogic engagements with Western theorists, but because of their use of an Islamic discourse of rights and public reasoning which rejects the false dichotomy between religious identity and political participation.

6.4 International Human Rights Law as a Strategic Resource

Whereas the European Court of Human Rights appears to have betrayed the hopes of Muslim minorities in Europe, the more general framework provided by international human rights laws such as the International Covenant on Civil and Political Rights, the UN Declaration on Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief, and UN Human Rights Committee's General Comment No. 22 offers normative possibilities for resisting unjust secular laws.⁴⁴ General Comment No. 22 affirms that the freedom to manifest religion includes the freedom to wear religious garments in public and cannot be restricted on grounds that amount to forcing an individual to abandon their religious identity.

The Parliamentary Assembly of the Council of Europe's Resolution 1743 (2010) on 'Islam, Islamism, and Islamophobia in Europe' explicitly warned member states against conflating the legitimate exercise of Islamic religious practice with political extremism and called for the protection of Muslim religious freedoms within the framework of European human rights standards.⁴⁵ Muslim advocacy organisations and Islamic legal scholars are increasingly using these international instruments to mount legal challenges against discriminatory national legislation, a strategy that must be intensified and coordinated at the pan-European level.

7. Conclusion

The use of laïcité and similar secular ideologies as tools to limit the free expression of Muslims' religion within Europe can be said to mark one of the critical civil rights issues of the modern era. The present article has shown, in light of the theological, jurisprudential, and intellectual traditions of Islam, that such restrictions cannot simply be considered legally contentious but also morally

⁴⁴United Nations Human Rights Committee, "General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion (Art. 18)," UN Doc. CCPR/C/21/Rev.1/Add.4, 30 July 1993.

⁴⁵Council of Europe, Parliamentary Assembly, Resolution 1743 (2010), "Islam, Islamism and Islamophobia in Europe," 23 June 2010.

repugnant. Such restrictions violate the Quranic value of hurriyyat al-din, the model of peaceful co-existence as taught by the prophet Muhammad, the jurisprudential tradition's view of religious obligations, and finally the Islamic conception of dignity that can only be fully articulated through acts of faith.

In its claim to neutrality, secularism must be said to be nothing but an ideological construct. Laïcité, as practiced in France and as it becomes increasingly dominant throughout Europe, does not produce a neutral public space devoid of all religious values; it produces a public space whose underlying norms are those of Christian civilization and rationalism, norms that are incompatible with Islam. Genuine pluralism, the kind that the Quran envisions in its declaration that Allah made humanity into peoples and tribes that they may know one another, requires not the erasure of difference in the name of unity but the active protection of difference as the condition of authentic community. Muslim minorities in Europe are not asking for special privileges; they are asking for the same freedom that liberal democratic theory promises to all citizens: the freedom to live according to their deepest convictions in the public world they share with their fellow citizens.⁴⁶

The Islamic tradition has the intellectual capacity, the jurisprudential acumen, and the spiritual insight necessary to tackle this dilemma without compromising on one hand to secularist expectations, and on the other hand retreating into itself. As the writings of Iqbal, al-Qaradawi, and Ramadan, among others, show, the way forward is through a confident and articulate enunciation of the Islamic conception of justice, pluralism, and dignity, which is both universal in scope and based on timeless sources, such as the Quran and Sunnah. The closing verses of the Quran provide an appropriate summation: "Are those who know equal to those who do not know?" (Quran 39:9).⁴⁷

⁴⁷Quran 39:9, trans. Muhammad Asad.