

2016/15:Should some French cities have banned the burkini?

What they said...

'There are no burkinis on the beach (here) and we are making sure it stays that way. The beach is a place to relax, not a space for ideological or religious confrontation'

Gil Bernardi, the mayor of Le Lavandou

'Invasive and discriminatory measures such as these restrict women's choices and are an assault on their freedoms of expression, religion and right to non-discrimination'

John Dalhuisen , Amnesty International Europe Director

The issue at a glance

On September 6, 2016, a Corsican court ruled in favour of a ban on burkinis previously placed by the village of Sisco on Corsica. (Corsica is an island in the Mediterranean Sea and one of the 18 regions of France. It is located west of the Italian Peninsula and southeast of the French mainland.)

On September 1, 2016, a court in Nice, France, suspended the operation of French bans on the burkini. This suspension followed a similar ruling of the State Council on August 26, 2016, that overturned the burkini ban imposed by French commune Villeneuve-Loubet.

The bans had begun on August 12, 2016, when the first was imposed by the city of Cannes.

The public safety concerns that prompted these bans have seen them imposed in some 30 French towns and cities.

Despite the judicial rulings against them, those cities which have imposed bans are still keen for them to continue.

Background

Most of the information contained below has been abbreviated from an article titled 'A Brief History of the French Burkini Ban' published on September 9, 2016, on Sharia Source at Harvard Law School.

The full text can be found at <https://shariasourceblog.wordpress.com/2016/09/09/a-brief-history-of-the-french-burkini-ban/>

Burkini ban in France

Burkini bans have been implemented by various cities and communes on the French coast, with authorities in at least 30 towns and cities having so far brought in bans.

The first city to announce the prohibition was Cannes, on August 12, 2016, where mayor David Lisnard said he wanted to prohibit 'beachwear ostentatiously showing a religious affiliation while France and places of religious significance are the target of terror attacks' to avoid 'trouble to public order'.

Dozens of women were issued fines, with some tickets citing not wearing 'an outfit respecting good morals and secularism', and some were verbally attacked by bystanders when they were confronted by the police. There were media reports that in one case armed police forced a woman to remove her clothing on a beach in Nice.

The second commune to announce a burkini ban, Villeneuve-Loubet, stipulated that only clothing that 'is respectful to morality and secular principles, and in compliance with hygiene and safety rules' is to be allowed. Mayor Lionnel Luca cited unspecified 'hygiene reasons' for banning full-body swimwear.

On August 26, the highest court in France, the State Council, overturned the Villeneuve-Loubet ban.

What is a 'burkini'?

The word 'burkini' is a portmanteau formed by combining the words 'burka' and 'bikini'. Although it comes in many different forms, the unifying element of most burkini variations is that they cover everything but the face, hands and feet. The burkini is typically worn by Muslim women who wear the hijab (headscarf) in their daily lives but find it too constrictive and too limiting when they wish to exercise or swim.

In Islam, the principle of awra (privacy, which relates closely to rules for modesty) governs what parts of the body are considered to be intimate for both men and women and, therefore, ought to be covered in the presence of non-family members. The notion of awra varies considerably by the legal opinions within Islam's multiple legal schools and by individual jurists.

While aiming at modesty, the classical Islamic opinions use the notion to advise covering one's private parts. This can be defined as covering all but the hands, face, and feet or covering just the neck to the shins (for women), covering just the area between the torso and knees (for men), or covering the entire body and sometimes even lowering the voice's volume.

As a result, the matter of what constitutes awra, and the preferred means of exercising the due degree of modesty, remains largely a personal matter for most Muslim women reflecting both their familial upbringing and their individual preferences. Understandably, such choices in clothing have made participating in sports activities difficult for some observant women for whom 'awra demands full-body coverage.

These restrictions are not prohibitive, however. There were two Olympic medalists this year who prefer full body coverage: Ibtihaj Muhammad of U.S. fencing and Kimia Alizadeh Zenoozi of Iranian taekwondo.

The aims of the burkini's Australian inventor

The burkini's inventor, Lebanese-Australian designer, Aheda Zanetti, intended the garment to facilitate Muslim women's participation in sports, recreation and even lifeguard training.

To her, it symbolises 'leisure and happiness and fitness and health'. Rather than serving to distance Muslim women from core Australian values, Zanetti believes that her 'modest and suitable for sport' garments will serve to further integrate them because the attire frees the wearer to 'blend into [an] Australian lifestyle' that treasures the great outdoors. In this sense, Zanetti considered the burkini to be both a liberating and an integrating force.

Muslim population in France

France and Germany have the largest Muslim populations in Western Europe with 4.7 million and 4.8 million people, respectively, although France has a greater per capita proportion with about 7.5% of the overall population. Of these, roughly 3 million are foreign-born and hail from former French colonies, such as Algeria, Morocco and Tunisia. Many among those have also spent their formative years in France. Although the vast majority of France's Muslim population co-exists peacefully alongside other religious groups and secularists, the high-profile nature of the recent attacks has drawn considerable attention to France's problematic integration policies.

Public safety fears - the context of the burkini bans

On the evening of 14 July 2016, a 19 tonne cargo truck was deliberately driven into crowds celebrating Bastille Day on the Promenade des Anglais in Nice, France, resulting in the deaths of 86 people and injuring 434.

Five hours after the attack, French President Francois Hollande announced an extension of the existing state of emergency for a further three months.

On July 16, two agencies linked to the Islamic State of Iraq and the Levant (ISIL) claimed that the attack was inspired by their organisation.

Since the Charlie Hebdo Islamist terrorist attacks in January 2015, and the other attacks that took place in Paris in November and in Normandy earlier this year, France has been locked in a perpetual state of alert.

In explaining the motivation behind the burkini ban in Cannes, the head of municipal services, Thierry Migoul, referred to the burkini as a 'symbol of Islamist extremism' that demonstrates 'an allegiance to terrorist movements which are at war with us'. Human rights groups like the Human Rights League (LDH) and the Collective Against Islamophobia in France, for their part, argued that the ban violates fundamental liberties under the French Constitution as well as commonly held European norms.

Legal reaction within France to the burkini bans

On August 26th, France's highest administrative court, the State Council, suspended the ban in a widely anticipated move, ruling that the prohibition on clothing demonstrating an obvious religious affiliation, worn by swimmers on public beaches, 'seriously and clearly illegally breached fundamental freedoms.'

The State Council's decision effectively overturned a ruling by the Nice Tribunal, a lower administrative court, upholding the ban. Although the Council was reviewing a similar case brought in nearby Villeneuve-Loubet, its verdict sets a precedent across the nation that would invalidate the bans instituted by 30 French municipalities earlier this summer, including both Nice and Cannes.

The Nice Tribunal had previously held that the ban on full-body swimwear for women served a 'necessary, appropriate and proportionate' purpose in preventing the spread of Islamic extremism and, in turn, safeguarding its citizenry.

Procedurally the Council's suspension of the ban is not automatic, as many mayors have declared that they will continue to enforce their bans until directly challenged in court.

On September 6, 2016, a Corsican court ruled in favour of a ban on burkinis previously placed by Sisco.

Internet information

On October 9, 2016, novinite.com published a comment by Fayzal Mahamed titled "'To Burkini or Not to Burkini" - A Defence of the French & Bulgarian Burqa Ban'

The piece argue that Muslim dress codes are essentially oppressive and do not allow women a free choice of apparel.

The full text can be accessed at <http://www.novinite.com/articles/176716/'To+Burkini+or+Not+to+Burkini'+%E2%80%93+A+Defence+of+the+French+%26+Bulgarian+Burqa+Ban>

On September 8, 2016, The Chronicle published a comment by Emile Riachi titled 'The Burkini ban: a French perspective'

The opinion piece is a defence of the assimilationist policy traditionally adopted in France.

The full text can be accessed at <http://www.dukechronicle.com/article/2016/09/the-burkini-ban-a-french-perspective>

On September 7, 2016, the BBC published a report titled 'France burkini: Corsica court upholds local ban'

The report details the decision of a Corsican court to support a ban imposed in Corsica on the wearing of the burkini.

The full text can be accessed at <http://www.bbc.com/news/world-europe-37293201>

On September 5, 2016, The Huffington Post published the reply of the French president, Manuel Valls, to criticisms published in The New York Times of his support for the banning of the bikini.

The full text of the president's defence of the bans can be found at <http://www.huffingtonpost.com/manuel-valls/in-france->

[women-are-free_b_11867242.html](#)

On August 28, 2016, The Tribune published a news report titled 'French mayors who banned burkini to defy court ruling against them'

The report details the opposition of the mayors to the State Council's ruling overturning a ban on the burkini and their determination to continue the ban within their own jurisdictions until explicitly instructed not to.

The full text can be accessed at <http://www.telegraph.co.uk/news/2016/08/28/french-towns-who-banned-burkini-to-defy-court-ruling-against-the/>

On August 26, 2016, Amnesty International issued a media released Praising the French State Council for its decision to overturn a communal ban on the burkini.

The full text can be accessed at <https://www.amnesty.org/en/press-releases/2016/08/france-reaction-to-court-decision-to-overturn-burkini-ban/>

On August 24, 2016, the Guardian published a comment by Aheda Zanetti, the original designer of the burkini. The piece is titled 'I created the burkini to give women freedom, not to take it away'

Zanetti explains the reasons for her development of the burkini and her disappointment at the French bans.

The full text can be accessed at <https://www.theguardian.com/commentisfree/2016/aug/24/i-created-the-burkini-to-give-women-freedom-not-to-take-it-away>

On August 20, 2016, The Conversation published a comment by Pina Sadar, a PhD candidate in Anthropology at Durham University. The comment is titled 'Banning the burkini reinforces a single story about Muslim women: they need saving'

It argues that the burkini ban promotes a narrow and prejudiced view of Muslim women.

The full text can be accessed at <https://theconversation.com/banning-the-burkini-reinforces-a-single-story-about-muslim-women-they-need-saving-64180>

On August 19, 2016, The Chicago Tribune published a comment by Steve Chapman titled 'The bare truth about French burkini bans'

The opinion piece counters a number of the argument used to justify the banning of the burkini by a number of French communes.

The full text can be accessed at <http://www.chicagotribune.com/news/opinion/chapman/ct-burkini-france-swimsuit-ban-muslim-perspec-20160819-column.html>

On August 17, 2016, The Sydney Morning Herald published a comment by Sarah Malik titled 'French bans on the "burqini" force Muslim women back to watching from the sidelines'

Malik argues that the burkini ban discriminates against Muslim women.

The full text can be accessed at <http://www.smh.com.au/lifestyle/news-and-views/opinion/french-bans-on-the-burqini-force-muslim-women-back-to-watching-from-the-sidelines-20160816-gqtr4a.html>

On August 14, 2016, The Telegraph published a comment by Juliet Samuel titled 'French burkini bans are a foolish act of fanaticism'

The opinion piece offers a criticism of the French ban on the burkini.

The full text can be accessed at <http://www.telegraph.co.uk/news/2016/08/14/french-burkini-bans-are-a-foolish-act-of-fanaticism/>

On August 13, 2016, Religious Despatches published a comment by Shabana Mir which challenges many of the justifications offered for banning the burkini.

The comment is titled 'The Deadly Burqini, Or, What Exactly is an "Islamic Swimsuit"?'

The full text can be accessed at <http://religiondispatches.org/the-deadly-burqini-or-what-exactly-is-an-islamic-swimsuit/>

On August 12, 2016, Shafaqna published an exclusive interview with David Lisnard, the mayor of Cannes, in which he explained his decision to ban the burkini.

The full text can be accessed at <http://en.shafaqna.com/news/36187>

The United Nations Universal Declaration of Human Rights can be accessed at <http://www.un.org/en/universal-declaration-human-rights/>

Critics of the burkini bans argue that they are in violation of a number of these rights.

Arguments in favour of banning the burkini

1. The burkini is unsafe to swim in and potentially unhygienic

None of the French communes to ban the burkini have specifically applied this term to the items of clothing to which they object. Instead, at least one has merely extended prohibitions which limit the apparel which may be worn in public swimming pools.

The burkini was banned on a number of French beaches under regulations that require those entering public swimming pools to wear conventional swimsuits. This long-standing regulation was not put in place with the intention of prohibiting the burkini. Its purpose is to prevent people entering the water in their street clothing on the basis that this would be unsafe for swimming and unhygienic.

Concerns centre on the risk of drowning because of the poor flotation of conventional street wear and the drag caused by such clothing when it becomes waterlogged. The hygiene question has been interpreted in a variety of ways; however, it is most commonly understood to mean that conventional clothing might release dyes or other contaminants that would pollute the water of public pools and that fabrics specifically designed for immersion would be preferable. On August 13, 2009, Sabana Mir, writing for Religious Despatches, noted, 'The rules for public pools usually don't permit everyday clothing in the pool. Presumably this is because of safety and hygiene issues, both of which are important ones, given the risk of drowning and of exposure to nasty germs in a public pool.'

Villeneuve-Loubet, the second coastal commune to announce a ban on women entering the water wearing apparel such as the burkini appears to have been motivated by similar concerns. It announced a regulation permitting people to use its beaches only if wearing clothing that 'is...in compliance with hygiene and safety rules'.

The mayor of Villeneuve-Loubet, Lionnel Luca cited unspecified 'hygiene reasons' for banning full-body swimwear. Similarly, certain swimming pools in Austria and Germany are turning away burkini-clad women on the grounds of hygiene.

The mayor of the southern German town of Neutraubling, Heinz Kiechle, has stated, following the ban imposed there, 'So far there was only one female guest who wanted to wear a burkini, which other female guests thought of as unhygienic.'

2. The ban respects the secular French state

The French state is overtly secular and proudly boasts its lack of an established religion. Secularism, referred to as 'laïcité', is a core concept in the French constitution, Article 1 of which formally states that France is a secular republic. Laïcité is the absence of religious involvement in government affairs, especially the prohibition of religious influence in the determination of state policies.

It also prohibits government influence in favouring or determining the observance of a particular religion.

In more recent times the concept has been extended to justify the banning within French institutions, such as schools, of items that are said to promote a particular religious belief.

A debate has taken place over whether any religious apparel or displays by individuals, such as the Islamic hijab, Sikh turban, (large) Christian crosses, and Jewish Stars of David and kippah, should be banned from public schools. Such a ban came into effect in France in 2004. In 2010 face-covering veils were prohibited in public streets because they were seen as a security risk and because they encouraged a particular religion.

Some opponents of the burkini believe it should be banned on similar grounds. They argue that it promotes Islam and as such is at odds with French avoidance of any action that could be seen as advocating for a specific religious belief.

The first French commune to ban the burkini did so specifically as a defence of secularism. Cannes Mayor, David Lisnard, issued an ordinance on July 28, 2016, forbidding beachwear that does not respect 'good morals and secularism'.

Gil Bernardi, the centre-Right mayor of another Mediterranean resort, Le Lavandou, has stated, 'There are no burkinis on the beach (here) and we are making sure it stays that way. The beach is a place to relax, not a space for ideological or religious confrontation.'

In an initial court ruling upholding the ban, a court in Nice wrote: 'Wearing such singular clothing, other than that commonly worn for swimming, can only be interpreted as a symbol of religiosity in this context,' further stating that such religious displays conflict with France's commitment to secularism.

Many members of France's Socialist government have been vocal supporters of the ban. Prime Minister Manuel Valls has said that the burkini was incompatible with the values of the French Republic and that the burkini represents 'a deadly and retrograde Islamism'.

The Prime Minister has stated, 'Beaches, like all public areas, must be protected from religious claims.'

3. The ban protects and promotes gender equality

Some opponents of the burkini claim that it is an attempt oppressively to regulate the behaviour of women and as such denies them equality relative to men. According to this argument, the burkini is an expression of Muslim extremism which imposes restrictive dress codes upon women which limit their freedom of expression and are symbolic of other restrictions forced upon them.

Iranian artist Shirin Neshat has stated, 'The female body has been politicised and has functioned ... as a type of battleground for ideological, philosophical and religious debates and agendas.'

Muslim women have been made to embody and practise the value systems of their societies through their bodies and social behaviour.' From this perspective the burkini is seen as a cultural imposition limiting the freedom of Muslim women.

French cabinet member, Laurence Rossignol, has stated that the function of clothing restrictions is to 'hide women's bodies in order to better control them.'

In an opinion piece published in novinite.com on October 9, 2016, Fayzal Mahamed stated, '[The] enforcement of a dress code and by extension...a particular behaviour by state religious authorities subjugates, represses and enslaves millions of Muslim women.'

In other countries with a large Muslim population outside of the Middle East it is enforced or coerced by tradition and a patriarchal religious society...

The choice of wearing the burka [and by extension the burkini] in western countries is bounded and restricted by a Muslim woman's religious beliefs or imposed from the outside and is not equivalent to the free choice of dressing that almost all women experience in a free and democratic society.'

With regard to how western countries should approach dress codes imposed on Muslim women living within their jurisdictions, Fayzal Mahamed has stated, 'The right of Muslim women to wear the burka [and the burkini] has to be seen in the context of a restrictive religious practice that subjugates, represses and enslaves Muslim women. Western nations have a duty to confront the subjugation and repression of the rights of Muslim women in Islamic countries. It begins by sending the message that the wearing of the burka, symbolic of the subjugation and repression of Muslim women, will not be tolerated on home soil.'

The French Prime Minister Manuel Valls has similarly stated, 'The burkini is not a new range of swimwear ... It is an expression of a political project, a counter-culture, notably based on the enslavement of women.'

Explaining his view further, Manuel Valls has stated, 'The first principle is the equality of women and men. We must have open eyes to the growing influence of salafism, which contends that women are inferior and impure and that they must be sidelined. This was the question... that was at the center of the debate around the burkini and the burka. It is not an insignificant bathing suit. It is a provocation of radical Islam, which is emerging and wants to impose itself in the public space!'

4. The ban discourages Muslim extremism and promotes assimilation

Some supporters of the ban have claimed that allowing the burkini to be worn on French beaches is an encouragement to Muslim extremism, a worldview with which a majority of the French are ideologically and politically opposed.

The mayor of Corsica, Ange-Pierre Vivon, has been reported as claiming, 'Islamist fundamentalists have no business' on the Mediterranean island.

The mayor of Cannes, David Lisnard, has similarly stated, 'I simply forbid a uniform that is the symbol of Islamic extremism.'

Thierry Migoule, Cannes' head of municipal services, has further stated, 'We are not talking about banning the wearing of religious symbols on the beach... But ostentatious clothing which refers to an allegiance to terrorist movements which are at war with us.'

Lisnard has further stated that assimilation is an obligation upon those who live in France. During an interview conducted on August 11, 2016, the Cannes mayor stated, 'This is not about discrimination but about the affirmation of French republican values. Our message is clear - When in France comply to France's rule, and burkinis I'm afraid to say are a sign of radicalisation. Radicalisation is a big issue and we have to take all necessary measures to combat it.'

It has been argued that France places a high value on assimilation, that is, immigrants who decide to live within France are to abide by, or do nothing to disrupt, majority French cultural practices and beliefs.

On September 8, 2016, The Chronicle published a comment by Emile Riachi, who stated, 'Immigrants...[are] to be granted full citizenship rights and equal treatment, but in exchange, they...[have] to adopt the French ideals, way of life and culture. In other words, immigrants ...[are] integrated as individuals, but not as communities; France...[can] be a multiracial country, but it ...[can] not be a multicultural one.'

Riachi further explained, 'The burkini ban must be understood... as an attempt by French people to re-embrace their assimilationist model... In fact, the burkini is seen in France as a provocation, a violent symbolic assault on the space that best represents the liberalism of French society: the beach and its near-complete nudity.'

5. The burkini ban prevents civil order

It has been claimed that wearing a burkini can be a provocation to civil disorder.

Those who make this claim cite the climate of fear currently existing in France following a series of terrorist attacks within the country perpetrated by Islamist extremists.

It is argued that in this climate wearing a garment associated in the popular mind with Islamist extremism may well provoke violent reactions from French citizens who perceive the garment and the attitudes it represents as a threat.

The ruling in Cannes which banned the wearing of burkinis on its beaches stated, 'Beachwear which ostentatiously displays religious affiliation, when France and places of worship are currently the target of terrorist attacks, is liable to create risks of disrupting public order (crowds, scuffles etc) which it is necessary to prevent.'

A riot which occurred in Corsica over the wearing of the burkini has been highlighted as a demonstration of the need to ban the garment in order to prevent civil disorder.

There are different accounts of the precise course of the riot; however, it appears that a group of Muslim beachgoers attempted informally to close off a portion of the beach where Muslim women were swimming wearing burkinis.

Reports of what occurred next differ. The result was either that other beachgoers then attacked them or that other beachgoers were themselves attacked when it appeared that they may have been taking photographs of the burkini-clad women. (The claim regarding the taking of photographs has itself been disputed.)

Mayor Ange-Pierre Vivoni of Sisco, on the French Mediterranean island of Corsica, has referred to the riot as evidence of the need for a ban on wearing burkinis. He has stated, 'People here feel provoked by things like that.' The mayor has further stated, 'The population of Sisco lives in permanent fear. There are many provocateurs here ... We are living on a powder keg.'

Following the riot, a Corsican court has approved a burkini ban despite a higher French court having previously

overturned such bans. The Corsican court stated, 'The presence on a beach in Sisco of a woman wearing a swimming costume of the type targeted (by the ban) ... could cause risks to public order which it is the town hall's duty to prevent.'

Arguments against banning the burkini

1. The burkini is not unsafe or unhygienic

Supporters of the burkini argue that some of the complaints made about it are merely lame excuses used to disguise prejudice. This is the reaction that many who favour women being allowed to wear burkinis have with regard to its supposed unhygienic nature.

Its supporters note that a burkini is little different to a wetsuit, which is not condemned for being unhygienic and that it is made out of the same fabric as conventional swimsuits and thus is no more likely to contaminate water, shed dye or hold dirt than any other accepted swimming costume.

In an opinion piece published in *The Telegraph* on August 14, 2016, Juliet Samuel indicated her scepticism regarding those who purport to believe that the burkini is unacceptable because it is unhygienic. Samuel quotes the mayor of Villeneuve-Loubet, who has stated, 'I was told that there was a couple on one of our beaches where the wife was swimming fully dressed, and I considered that unacceptable for hygienic reasons.' Samuel's disbelief of this flimsy justification is indicated in her response, 'He did not specify whether he was worried about the hygiene of the wife, the other swimmers or the fish.'

There are a number of jurisdictions which have overturned attempted bans on the burkini due to supposed health concerns.

Malta's state health directorate has declared that swimming in a full-body Islamic bathing suit is just as hygienic as using any other form of swimwear.

Charmaine Gauci, who heads the Health Promotion and Disease Directorate, has stated that there was no hygiene concern in swimming in a full-body suit or burkini. Dr Gauci issued this statement after the Marsa Sports Club in Malta ordered a Muslim woman not to use the pool wearing a burkini on the grounds that her costume was a risk to public health.

It has similarly been claimed that the burkini, being made from the same fabric as conventional swimsuits does not impede swimming any more than a wetsuit. In addition, it has been argued that the degree of sun protection the burkini offers makes it a safer option.

Celebrity chef Nigella Lawson attracted media attention in 2011 when she was photographed wearing a burkini on Bondi Beach. Lawson claimed to be wearing the burkini so she did not have to keep re-applying her sun cream. She stated, 'I can see it looks odd but it is incredibly comfortable and there's no sun block and you're not getting a tan.'

It has further been noted that the burkini does not increase the wearer's risk of drowning.

On August 13, 2016, Religious Despatches published at comment by Shabana Mir which stated, 'There are no issues with floatation, since the fabric is the same as a regular swimsuit. It's not an abayah that will get in the way of your limbs, or a dress that will fill up with water and drag you down. It's simply a swimsuit that covers more of your body. Why is that even an issue of note? If scuba divers wear wetsuits, why is the burkini a problem?'

2. The burkini ban is an attack on religious freedom and a range of other freedoms

It has been claimed that the recent banning of the burkini in a number of coastal communes in France and at some public swimming pools in Germany and Austria is an unjust restriction on the religious freedom of Muslim women. Supporters of the burkini argue that it is unfair to deny those women whose religious beliefs require them to cover much of their bodies in public an opportunity to do so. It requires the women concerned to make a choice between their freedom of movement and their freedom of religious belief. Both freedoms are guaranteed by the United Nations' Universal Declaration of Human Rights.

Article 18 of the Declaration states, '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.'

Article 13 of the Declaration states, 'Everyone has the right to freedom of movement...'

It has also been claimed that prohibiting Muslim women from wearing the burkini is an attack on their freedom of expression.

Article 19 of the Declaration states, 'Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.'

It has further been claimed that these bans are discriminatory and as such are a violation of women's right to freedom from discrimination.

Article 7 of the Declaration states, 'All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.'

France is one of the 48 original signatories to the United Nations Universal Declaration of Human Rights. Opponents of French actions in banning the wearing of the hijab in schools and in prohibiting the wearing of face coverings in public have suggested that these actions are not in accord with the Declaration.

On August 26, 2016, the French State Council ruled the measures prohibiting the wearing of burkinis a 'serious and clearly illegal violation of fundamental freedoms'.

The court ruled that local authorities could only introduce measures restricting individual freedoms if wearing the Islamic swimsuit on beaches represented a 'proven risk' to public order. The judges said there was no such risk in the case before the court concerning Villeneuve-Loubet, a resort on the Cote d'Azur between Nice and Cannes.

The United Nations has expressed support for the decision of the French State Council. A UN spokesperson, Stephane Dujarre, has stated, 'We welcome the decision by the court. The need for people's dignity has to be respected.' Amnesty International Europe Director John Dalhuisen has also stated, 'These bans do nothing to increase public safety, but do a lot to promote public humiliation. Not only are they in themselves discriminatory, but as we have seen, the enforcement of these bans leads to abuses and the degrading treatment of Muslim women and girls... Invasive and discriminatory measures such as these restrict women's choices and are an assault on their freedoms of expression, religion and right to non-discrimination.'

3. The ban denies some Muslim women physical freedom and an opportunity to exercise

Dress code restrictions impose inevitable restrictions on some conservative Muslim women. The modesty requirements that regulate their choice of attire have traditionally meant that they are either denied access to beaches and swimming pools or are extremely limited in the access they can enjoy.

The burkini was designed as an attempt to open up these recreational public spaces to Muslim women who would not otherwise be able to enjoy them.

The Australian designer of the burkini, Aheda Zanetti, has stated, 'When I invented the burkini in early 2004, it was to give women freedom, not to take it away.' She originally designed it for her niece so she would be able to take part in outdoor activities other Australian girls take for granted, without violating the modesty requirements of her religion.

Zanetti has described the freedom she personally felt when she first trialled the swimming costume. She has written, 'It was my first time swimming in public and it was absolutely beautiful. I remember the feeling so clearly. I felt freedom, I felt empowerment, I felt like I owned the pool. I walked to the end of that pool with my shoulders back.'

The freedom that the burkini has allowed Muslim women has been similarly described by Sarah Malik, who has stated, 'In 2006, Mecca Laalaa became the first burkini-clad Muslim woman in Australia to become a lifeguard, trailblazing a road for Muslim women to not only participate but own the surf.'

Describing her own experience of wearing the burkini, Malik has further stated, 'I love the beach. I live right near one and as the weather warms up, there is nothing more glorious than walking the golden shores and sinking into the cool water.'

Supporters of the burkini argue that banning this type of swimming costume means that many Muslim women will lose this recently acquired freedom to enjoy sun, surf and sand.

Malik has claimed, 'Now these women who were perhaps even braving the disapproval of the more conservative in their own community will be back to watching from the shoreline.'

Rather than liberating Muslim women, it has been claimed that banning the burkini will intensify their disempowerment. Malik concluded her argument by noting, 'The ban is an attack on minority communities, already subject to increased surveillance and harassment, who occupy the very bottom of the social hierarchy; and its most vulnerable members - Muslim women.'

4. The burkini does not conceal a woman's identity and does not pose a security risk

It has been claimed that the primary justification used to support the banning of the burka, does not apply to the burkini. The burka covers or obscures the wearer's face. As such it is a garment that can pose a security risk, as the wear may be a known criminal or suspect who might otherwise be recognised. The wearer of a burka could also commit a crime and not be able to be easily recognised. Given the level of concern regarding terrorist attacks, it is also alarming that a terrorist would be easily able to hide a weapon beneath the voluminous folds of a burka.

A comment published in Swarajya on August 26, 2016, stated, 'Experts argue that while there is a strong security justification for banning the burka, the same cannot be said about burkini. If someone tried to carry a Kalashnikov beneath a burka, they would be - and have been - able to get away with it. The same principle applies considerably less in the case of the tight-fitting burkini.'

Defenders of the burkini argue that none of the justifications that can be applied to the banning of the burka, which was effectively achieved in France in 2010, apply to the burkini.

In an opinion piece published in The Independent on August 25, 2016, Adam Taylor noted, 'The burkini did not originate in Afghanistan. In fact, given that it is a two-piece garment that doesn't cover the face, it doesn't have a whole lot to do with the burka in general.'

Rim-Sarah Alouane, a religious freedom expert at the University of Toulouse and a Muslim raised in France, has stated, 'It's not a creation by Iran or Saudi Arabia: It's for women who are trying to enjoy a very Western activity, like sitting on a beach in the sand.'

Akeela Ahmed, a London-based equalities campaigner, has stated, 'They're penalising French Muslim women for the actions of terrorists. They either go to the beach and not swim or remain isolated in their communities at home.'

Akeela Ahmed has added, 'These women are not a security threat, they're just average French Muslim women.'

5. The ban expresses and promotes islamophobia

For many opponents of the ban it is dangerous and offensive because it identifies all conservative, observing Muslim women as potential risks to public security. This is the demonisation of a group on the basis of their religious beliefs, in this case, adherence to Islam.

In an opinion piece published in Daily O on August 31, 2016, Affan Yesvi noted, 'Sadly, a mode of attire which is purely

rooted in cultural and religious preferences has been regarded as an act of identification with terrorist groups.'

While it is reasonable for French authorities to exercise extreme caution in the aftermath of a series of terrorist attacks perpetrated by Islamist extremists, it does not follow that all French citizens who are followers of Islam are terrorist extremists. Critics of the ban note that the burkini ban is an expression of this generalised anti-Islamic prejudice.

French-born Muslim Ben Mohamed, whose views were presented on CBS News on August 26, 2016, has noted that actions such as the banning of burkinis legitimise anti-Islamic prejudice in the eyes of other French citizens. It demonstrates to them that many French authorities see all Muslims as people to be feared.

Ben Mohamed has stated 'We already have this problem of Islamophobia since the attack of Charlie Hebdo, but now it's worse and worse since, you know...it's very, very difficult for Muslim people to be what they are.'

Ben Mohamed has further stressed, 'When you see someone wearing hijab, it means that she is Muslim. But for the mayor of Cannes, if you are wearing a burkini, it means that you are a part of a radicalised organization.'

According to recent polls, two-thirds of the French population support the ban.

Michele Sibony, a senior member of the Jewish Union for Peace, has compared the current climate for Muslims in France to the 1930s when the Jewish community lived under rampant anti-Semitism.

Sibony has stated, 'By arguing for this hate, people were inoculated with it, and there comes a time where a single match will be enough.'

Further implications

Recent attempts to ban the burkini on a number of French beaches have occurred in the context of increasing French concern about the threat posed by Islamist extremists within France.

The situation is a complex one because, as a number of critics have pointed out, such bans show a tendency to conflate (unfairly and inaccurately) conservative, observing Muslims with terrorists.

There is an inherent injustice in prohibiting a woman from wearing a swimming costume which indicates her religious belief as a means of acting against fanaticists who pose a risk to public safety. One is obviously not necessarily the other; while the sort of public safety concerns that can be raised to justify the banning of full-face coverings cannot be identified here.

The situation is more complex in France as the country has a long and evolving tradition of secularism, which, rather than allowing the open and free expression of all religious creeds, has tended toward sanctioning the overt expression of religious faith primarily within the private sphere.

Demonstrating one's religious beliefs in France is often seen as the equivalent of promoting them, an action viewed with disfavour both under French law and as part of the country's cultural heritage.

Regarding the threat to civil order posed by women wearing burkinis, the situation becomes more difficult given the level of public hostility toward Muslims following a spate of terrorist attacks. The populace cannot be relied upon to react rationally when confronted by women in conservative Muslim attire and the risk of racial abuse and public disorder is high.

Thus, it is understandable that some communes have put bans in place. This action was actually endorsed by a local court after a riot on Corsica that saw a burkini ban put in place. However, bans seem at best a short-term solution. They serve to drive an even deeper wedge between the Muslim and non-Muslim communities living in France.

They justify the popular fear that all obviously practising Muslims are dangerous while at the same time demonstrating to French Muslims that they are not accepted. Such a message is only likely to leave a small number of French Muslims in a state of resentment and alienation - fertile ground for the radical Islamist propaganda that French authorities rightly find so concerning.

News items used in the compilation of this issue outline

All newspaper and other sources used for this issue outline can be found (with direct hyperlinks) in the Web Links and Documents section.