

Hijabs, Burqas and Burqinis: Freedom of Religious Expression In The French Public Sphere

Authors : John Tate

Abstract : In 2004, the French Parliament banned the “hijab” in public schools, and in 2010 it prohibited the “burqa” and “niqab” in “public places.” The result was a “secular” outcome involving the removal of these garments, often identified with Islamic religious and cultural practice, from the French public sphere. Yet in 2016, the French local council bans on the “burqini” were overruled by France’s highest administrative court, the Conseil d’État, allowing for their retention in the public sphere. Unlike the burqa and hijab bans, the burqini bans produced significant divisions at the highest echelons of the French political class, with the Prime Minister, Manuel Valls, and the President, François Hollande, finding themselves at odds on the issue. This article seeks to achieve four aims. It seeks to (a) explain the contrary outcomes between key French state institutions, such as the Conseil d’État and the French Parliament, concerning the hijab and burqa bans, and the Conseil d’État and French local councils, concerning the burqini bans; (b) to do so by identifying two qualitatively distinct, and at times incompatible, conceptions of laïcité, present within official French public discourse, and applied by these French state institutions to underwrite these respective outcomes; (c) explain why, given these contrary conceptions of laïcité, and these contrary outcomes, the widespread identification of laïcité with “secularism” is both misleading and inaccurate; and (d) provide an explanation why senior members of the French political class were divided on the burqini bans when they were not divided on the nation-wide prohibitions of the hijab in public schools and the burqa in public places. In regard to this last question, the article seeks to ask why the Burqini was “different”?

Keywords : liberalism, republicanism, laïcité, citizenship

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