

Behind the Burqa

By SANDEEP GOPALAN

Why the French obsession with the burqa? After all, as the French government itself has conceded, only about 1,900 women wear the full-body covering. So why are over half of the respondents in recent public opinion polls in favor of a ban on it?

The answer is simple. This is not about a fashion faux pas or women's rights, but about sending a message to Muslims. Concerned with increasingly visible numbers of Muslims openly practicing their way of life while enjoying the privileges of life in the West, French citizens and politicians alike feel that they need to restore 'Frenchness' to their streets.

What exactly they mean by this is unclear, but there is apparently agreement that it means a largely homogenous society or, at the least, a multicultural one with well-integrated foreigners. Whether such a society is desirable or not, the burqa ban is not the way to get there.

This confusion is at the root of the French parliamentary commission's decision to recommend a partial ban on burqas. It would ban burqas in hospitals, schools, government offices and on public transport. Women defying the ban would be denied public services.

The commission's report said 'the wearing of the full veil is a challenge to our republic. This is unacceptable. We must condemn this excess.' If fewer than 2,000 Muslim women are capable of mounting a challenge to the republic, France must be built on weak foundations.

The ban's proponents claim to be acting in the cause of equality, that the burqa is a symbol of the repression of women. President Sarkozy, who has publicly declared that the attire is not 'welcome in France,' said in 2007 that 'France will not abandon the women who are condemned to the burqa.'

The irony of fighting repression with a ban seems to have escaped notice.

What is proposed is a serious invasion of personal liberty without reasonable justification. To be sure, individual freedoms can be legally curtailed when circumstances such as security, crime prevention or violence justify it. But the justifications given for the restriction of the religious freedoms by the burqa ban 'equality, repression of women, protection of French cultural values' do not seem to be on the same footing.

To begin with, judgments about cultural values are very subjective. Who

decides if particular items of clothing fit with French values? Can we trust politicians and bureaucrats to make these decisions for us?

Secondly, where do you draw the line? Are turbans, yarmulkes, saris, salwars and long skirts next? Many groups, including some feminists, assert that crucifixes and crosses are examples of patriarchal oppression. Would a government ban on jewelry containing crucifixes be justified? This is a slippery slope.

If we support a burqa ban on the basis that we dislike the clothing, or that it offends our notion of freedom, or that it makes us uncomfortable, we would then be opening ourselves to all manner of compromises on the many unpopular personal choices that we make in daily life.

The freedom to do that which is unpopular or ugly, but is harmless or legal, is precisely what a civilized society is about. We should not toss this aside lightly.

Burqa bans have been considered by other jurisdictions. In Egypt, the High Administrative Court recently overturned a ban on female students wearing the niqab ? a full face veil ? at university examinations. The court held that the ?a girl?s right to dress the way she sees fit in accordance with her beliefs and her social environment is a firm right that cannot be violated.?

The court did carve out a security exception, saying that a student wearing the niqab must show her face when asked for security reasons. Similarly, many Islamic states require women to unveil for photo identity cards, professional exams and certain medical procedures.

Religious preferences must yield when there is a compelling government interest and where accommodation is not reasonably possible.

The proposed French restrictions on the burqa do not satisfy either of these requirements. What compelling interest does the government have in banning burqas in hospitals or government offices? Or on buses and trains?

To the extent that there are any reasonable security concerns, it should be permissible to require burqa-clad women to be screened by police officers. Similarly, banning burqas from some government jobs would also be acceptable.

In any case, how would the partial ban be enforced? Enforcement would be costly and would only drive burqa-clad women out of the public space and into more darkness. If the purpose of the ban is women?s empowerment, this would be counterproductive.

In the end, the law would only serve to expose the Muslim community to scorn and ridicule and to further heighten the serious ethnic and

religious differences in French society.

Instead, France should invest in persuading the Muslim community to discard the veil voluntarily. A combination of compulsory education, incentives and access to equal opportunities is a better way forward. Bans only breed resentment and discord.

Sandeep Gopalan is head of the law department at the National University of Ireland, Maynooth.

Home <<http://www.nytimes.com/>>