

On March 8, 1979, 100,000 Iranian women marched in protest against new laws that had just been passed which made the hijab compulsory for all women. In 1982 the law would be extended to girls as young as six. Before the Iranian revolution, women in Iran looked like women in the West. The hijab and the niqab are modern inventions conceived as the outward expression of an anti-West, fundamentalist strain of Islam, bent on global triumphalism.

Not every woman who wears cover today is aware of its history or its political baggage. Many well-intentioned women mistakenly believe they are merely conforming to standards of modesty prescribed by their religion. Nevertheless, the political baggage is there.

The hijab has become well tolerated, if not approved by all, in western life. But the niqab has not.

Face covers cause justifiable tension with regard to security, but also spark social fears that cannot be easily defined.

Our public spaces, like ecological habitats, are more fragile than they appear. The introduction of a foreign component that impinges on western (and once universal) norms of human interaction can erode their health.

As many European nations have discovered, the adoption of full covers by a critical mass of women has indeed eroded the presumption of social trust and civic reciprocity Europeans used to feel when their societies were more culturally homogenous. Many countries have, as a result, adopted full or partial bans on face cover.

History of Bans

A law proscribing full face cover, for example, has just come into force in Austria, with the goal of “ensuring the cohesion of society,” a sentiment reflected in similar bans in Belgium, Bulgaria, Italy (where, since 1975, it has been illegal to cover one’s face in public), as well as Norway and other Scandinavian countries (Denmark and Sweden allow schools, administrations and companies to decide for themselves). France, where politicized veiling is particularly intense, instituted a full ban on cover in 2011.

In response to these bans, protesters have twice pursued legal challenges to them on human rights grounds. And twice the European Court of Human Rights has upheld the bans, rejecting “religious freedom” arguments.

The judges – from Belgium, Iceland, Estonia, Turkey, Montenegro, Monaco and Moldova – found the ban did not break rules within international treaties forbidding discrimination. The European Court of Human Rights is part of the 47-member Council of Europe to which Britain still belongs, even after Brexit.

These European decisions will be something for the Canadian government and the Supreme Court of Canada to consider, as they normally do, if a Charter challenge should arise with regard to Bill 62.

Bill 62

Bill 62 is a “religious neutrality” law passed into force by Quebec’s majority-Liberal government, which will ban face covers in the giving and getting of public services.

Quebec’s decision was not precipitate; rather, it has been long under review. In 2010, Bill 94 was proposed by the Liberals, and had the exact same motivation as Bill 62. As Quebec’s then-immigration minister Yolande James forthrightly put it at the time, “if you want to integrate into Quebec society, here are our values. We want to see your face.” Quebec Premier Philippe Couillard echoed her sentiment last week when he said of Bill 62, “We are in a free and democratic society. You speak to me, I should see your face, and you should see mine. It’s as simple as that.”

For most Quebecers, who are culturally confident and therefore not nearly so steeped in political correctness as the Rest of Canada (ROC), it actually is “as simple as that.” Both Bill 94 (which died with a change in government) and Bill 62 have therefore received overwhelming support in Quebec.

It is not Islamophobia that fuels Quebecers’ enthusiasm for the face cover law (nobody today is, after all, clamouring for a hijab ban). Two aspects of Quebec culture, which distinguish it from the ROC, can explain the support. First, in Quebec, the social ideal is modeled on the French principle of the full secularization of public life in the interest of “vivre ensemble” (living together) with minimal friction. A level social playing field is therefore privileged over the individual’s right to practice customs that impede social reciprocity, which the niqab certainly does.

(I should say here that Bill 62 goes too far in extending the ban to public transportation, where there is no social interaction with others. Apart from identifying herself to the driver, there is no “vivre ensemble” need so pressing that the state should force a woman to remain uncovered during the journey any more than when she is walking down the street, even if full face exposure at all times is a worthy ideal.)

Quebec Feminism

The second aspect is Quebec feminism. It is a powerful force here, even more visibly so than in ROC. However, perhaps because of Quebec's cultural singularity, feminists here adhere more to feminism's original premises of true equality for all women, regardless of cultural provenance, than the current wave of feminists do elsewhere.

In its latest "intersectional" iteration, feminism elsewhere has adopted what public intellectual Phyllis Chesler calls "faux feminism." Chesler writes: "Women's studies associations, national feminist organizations...are not merely 'politically correct'; they have become 'Islamically correct.' They are currently more concerned with the religious sanctity of head and face veiling than they are with FGM, forced face-veiling, honor-based violence, polygamy, child marriage, and honor killing in the West."

Chesler is correct. Canadian feminists are comfortable banning from political life those men and women who are pro-life on religious grounds, arguing that such Christian beliefs are degrading to women. Thus, the sanctimony of those who are calling out Bill 62 as racist or Islamophobic is especially galling for its hypocrisy, not to mention insulting to the millions of Muslim women in Iran, Afghanistan and Saudi Arabia who yearn to throw off their veils, but cannot—who yearn for gender equality, but have no voice to demand it.

Few Wearers

Relatively few women wear face covers at the moment in Quebec, an argument often adduced in opposing bans. But few women wore face covers in Europe 20 years ago; and then, as niqabs and burkas became normalized, largely for political reasons, they were everywhere. Their experience counsels the precautionary principle as the prudent course, while such a law is easy to enforce.

By taking a stand—at least in the taxpayer-funded institutions of public life for which it is responsible—the Quebec government has done the right thing.

Bill 62 makes a socially wholesome statement: Diversity can be our strength, but only when both individual rights and communal responsibilities find equilibrium in the public forum. Bill 62 is a welcome sign that the 100,000 Iranian women who marched to protest their loss of human rights in 1979 did not march in vain.

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