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## **Eveiluating Secularism and the Treatment of Muslim Women: A Cross-Cultural Study of France, the United States and India**

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*Evaluating* Secularism and the Treatment of Muslim Women: A Cross-Cultural Study of France,  
the United States and India

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## ***Abstract***

Secularism, although linked with ideals of democracy and equality, does not always result in the equal, treatment by the government and under the law, of all religious peoples. There are many types of secularism, but the three types examined in this paper are hard secularism, moderate secularism, and soft secularism. Hard secularism discourages religious visibility and attempts to keep religion in the private sphere. Soft secularism values religious visibility and encourages religious visibility, pushing religion to enter the public sphere. Moderate secularism takes a neutral stance, not encouraging religion to enter the public sphere, nor confining religion to the private sphere. Veiled Muslim women are treated are affected by hard, moderate, and soft secularism differently. However, their treatment is not only affected by the type of secularism employed in a state, but also the factors that lead to the state adopting their type of secularism. These factors include the religious history of the state, the number and presence of religious and ethnic groups in the state, and the historical exposure to Islam and veiled Muslim women. The case studies used in this paper will be France, India, and the United States.

## ***Presence of Islam and Compatibility with the West***

Historical factors have pushed Islam into a position where it poses a problem to Western secularism. Islam and the west have been in contact with each other since the beginnings of Islam itself, and Muslim minorities have lived under Christian domination since the the eleventh century in Sicily. However, the second half of the twentieth century has witnessed a new phenomenon of large scale migration of Muslims from Muslim societies to western societies not seen before (Roy, 2007). Even before the mass migration of Muslims to Western societies, there was a stigma surrounding Muslims in Western culture. To the West, Muslims represent the other

that is distinctly not Western. This sentiment is best embodied in the phenomena known as “orientalism”. First coined by Said in his book *Orientalism*, he argues that the notion of the Orient created by the West was instrumental in creating the great distinction between the West, meaning Europe, and the East, meaning the Orient (1979). Orientalism can be defined as the corporate institution for dealing with the orient. The phrase “dealing with” denotes making statements about, authorizing views, describing, teaching, settling it and ruling it, and the “orient” refers to the the near and far east –that which is not Europe (Said, 1979). Simply put, orientalism is how Western white men view the East. The practice of orientalism, also, has less to do do with what the real orient actually is and more to do with how the men of the West view it. The West viewed the Middle East, and Islam as an uncivilized, and that that need to be ruled by the West in order it to become a better, more modern society.

Years of acceptance of the orientalist perspective has created a biased view of Islam and Muslims that still persists today. Huntington’s *Clash of Civilizations* thesis has only perpetuated that perception of Islam and the great other in asserting that the most dangerous conflicts come from the fault lines between civilizations, specifically the lines separating Western Christianity and Islam (Banfi, 2016). This view of clashing cultures has only increased the divide between the West and Islam, and has not only increased anti-Islamic sentiment by painting Islam and Muslims as the ultimate other, but has also depicted Islam as a great threat to the West’s democratic values and social stability. The current depiction of Muslims in the West shows Islam as possessing fixed cultural religious attitudes, as being deeply opposed to the ethos of democracy and gender equality, and as being opposed to secularism (Banfi, 2016). This perception of Muslims as the other has lead people to question whether Islam is compatible with

the West and its values. The writings of Huntington, polarizing the West and Islam, encourage people to believe that Muslims are not compatible with the West (Roy, 2007).

As a result of this polarization of Islam and the West influenced by orientalist thought and the idea that they fundamentally different, Islam's compatibility with secularism is called into question. Although secularism is practiced throughout the world, it is a practice linked to the West, Western ideals, and even to modernity (Jahanbegloo, 2011). Secularism's link to modernity and western ideals could be seen as a legacy of orientalist thought and the idea that the West is superior to all others. In many Western states, democracy is viewed as the best ideology of government relations toward religions, valuing individual freedoms above all else. For many Western states, no secularism means no democracy (Keane, 2000). With democracy inherently linked to secularism, and secularism linked to modernity, the separation of church and state seems to be the modern ideal as people are moving away from religiosity. In his article on pluralism, religion, and secularism, Yinger notes that certain religious traditions create powerful tendencies to maintain a more traditionalist viewpoint rooted in the past, and he also points out that it is the traditionalists who rise to the top of hierarchies in religious organizations while the liberals get pushed to the side (1967). This, is implying that religion has antiquated tendencies rooted in the past, and, therefore, the separation from religion and the practices associated will bring about modernity. He is also implying that represents the past while secularism represents the future, and one must either choose to be modern with secularism, or be obsolete with religion. In this way secularism is linked to modernity, and in the west, secularism has been linked to the spread of democratic values.

The connection the Western model of secularism has with modernity has influenced other states to adopt a secular model. One such country was Turkey, which was governed by Mustafa

Kemal Atatürk. The Turkish elites had asserted that religion was an obstacle to progress, and so they looked to Western Europe as a model of modernity. Atatürk removed the use of Arabic script, implemented the Romanization of the script, and abolished religious education. He based the new family law on the Swiss civil code, and granted almost equal rights to women and discouraged veiling (Keddie, 2014). Atatürk looked to France for a model of secularism. Thus the Turkish model of secularism was influenced by the French model of secularism, *laïcité*. Although secularism represented the spread of democratic ideals in the west, it did not represent the same in the Muslim world. In Turkey, it became associated with dictatorship, the revocation of civil liberties, and the weakening of civil society (Jahanbegloo, 2011). Perhaps the difference in outcome of civil society in different states is a reflection that secularism does not in fact indicate modernity as scholars have led us to believe, and Western secularism's link to modernity is just a leftover orientalist thought. However, it is also possible that it was the unique historical and religious factors of Turkey at that that impacted the model of secularism in the state and thus how the citizens are treated.

This idea of the incompatibility of Islam and the West, and thus, modernity, has a great effect on how not only the religion is treated, but how people of the religion are treated. This includes veiled Muslim women. Veiled Muslim women have come to symbolize and entire religion although they are just a portion of Muslims, and they have had become synonymous with negative attitudes people have toward Islam. Their treatment by the government in secularists states, with democratic values grating personal freedoms and equality, however does not reflect the Western values associated with secularism such as democracy, equality and modernity. There is therefore a need to address what is leading to these failings in equal treatment in some secular states.

## *Secularism as a Concept*

The term secularism is derived from the Latin word “saeculum” meaning century or age. In the middle ages in Europe, a secular referred to a priest who worked in one of the local parishes, instead of shutting themselves inside monasteries and away from the outside world. During the Reformation, the process of secularization indicated the seizure of church land and property, and their subsequent conversion to non-religious uses (Kosmin and Keysar, 2007). While all the instances of the use of the term secular have varied throughout history, they do share the pattern of distance from the sacred, eternal, and religious. In the centuries that followed leading up to the present day, the use of the term secular has continued to indicate separation from religious authority and power.

It was in 1851 that George Jacob Holyoake, the leader of a rationalist protest movement in England, coined the term “secularism”. When Holyoake developed the term, he was using it as a way to describe his idea of a social order separate from religion (Madan, 1987). Since the origination of the term secularism over one-hundred and fifty years ago, scholars, politicians, and theologians have been using it in ambiguous ways making the definition of secularism confusing and unclear to many (Jahanbegloo, 2011). Historically, secularism had commonly been used to denote the antithesis of religion, or it has been used to refer to the process in which the belief and practice of a religious tradition declines in strength (Yinger, 1967). Today, secularism is interpreted by some to mean that the state, and the ruling body within, remain neutral in matters of religion (Jahanbegloo, 2011). This interpretation implies that a state is separate from religious, keeps out of religious matters, and does not favor any religious group. Another interpretation of secularism is that it asserts the right to freedom from the rules and religious teaching, and the imposition of a religion by the government. It also advocates the

neutrality of the state regarding religion meaning that the state should not provide privileges or subsidies to any religious group within the state (Nweke, 2015). It is clear that the concept of secularism has no one, clear cut, universal definition or interpretation of used by all the countries of the world. The term has had multiple definitions throughout history and continues to be interpreted differently today.

### ***Types of Secularism***

It is important to remember that secularism is a principle or policy that is employed by people and their state. Secularism is subject to interpretation by the ruling body of states that apply it. Therefore, the actual practice of secularism will vary from state to state, and secularism will, thus, take multiple forms. When discussing the different types of secularism, scholars tend to create a dichotomy separating secularism into two forms. These two forms are hard secularism and soft secularism.

Hard secularism, sometimes called assertive, hostile, radical, or programmatic secularism, asserts that a state should enact a policy of established unbelief (Ahdar, 2013). Therefore, the state plays an assertive role in keeping religion out of the public sphere and actively works to confine it to the private sphere. In hard secularism religious thinking and reasoning is kept from the public sphere because it is seen as inferior to rational scientific thinking. This view is influenced by the writings of Weber, Hobbes, and Marx. Hobbes urged people to relinquish their faith and take up the pursuit of knowledge and reason. Marx, following Hobbes, suggested that faith was an ideology contradictory to knowledge, and is a tool used by regimes for political control (Kosmin and Keysar, 2007). Weber's, Hobbes', and Marx's influence on hard secularism is presented in the strong divide between the public and private spheres. Hard secularism stresses that religion should be kept out of the government and the



public sphere as a whole, for political decisions should be made rationally and based off fact and religion is not believed to be rational.

Soft secularism, otherwise known as benevolent, moderate, passive, negative, or procedural secularism, is quite different from hard secularism. In contrast to hard secularism, which devalues religion and actively works against its public representation, soft secularism dictates the secular state plays a passive role in the establishment of any religions, and urges it allow public visibility of religion. The secular state attempts to remain neutral toward the various religions in their state, not advantaging or disadvantaging any religious group within the state (Kuru, 2007). Whereas hard secularism attempts to remove religion from the public sphere, soft secularism encourages expressions of religion in the public sphere with equal representation from each religious group. It is the acceptance of allowing visibility of religion in the public sphere and the maintenance of neutrality towards all religions that distinguishes soft secularism from and stands in contrast to hard secularism.

While most scholars group types of secularism in a binary system, having only hard and soft secularism, I contend that there should be a third group to put certain variations of secularism under. This third group should be labeled “moderate secularism”. Moderate secularism should be different from hard secularism in that it does not pursue a policy that delegitimizes religion and it does not actively work to keep all aspects of religion in the private sphere. It should be different from soft secularism in that it does not actively support religious visibility in the public sphere. Thus, moderate secularism should take the most neutral stance on religion. This means that it should be equidistant from each religious group, neither favoring nor disadvantaging any. The moderate secularism strives for equality in the treatment of all religious groups.

## *Question of Neutrality*

Although secularism has multiple meanings and interpretations, the definitions include a few commonalities. One is the separation of government from religious groups and the other is a policy of neutrality toward all religious groups. One readily accepted meaning of neutrality is that it is the state's duty to act impartially and nondiscriminatory ways toward different religions within the state. Beyond that there are four more variants of the interpretation of neutrality in secularism. The first variant is equidistance, otherwise known as "open neutrality" or pluralist. This interpretation of neutrality strives for religious neutrality by recognizing and welcoming religion in the public dimension (Ahdar, 2013). It gives all religions and world views equal access to public space. This view embraces the belief that failing to treat nongovernmental faith oriented entities performing similar functions as state institutions the same as the government equivalents is discrimination and thus not neutral behavior. The second variant of neutrality is formal neutrality. Formal neutrality, sometimes called "religion-blindness" asserts that the state should see a religious person without seeing their faith (Ahdar, 2013). This means that the state should see a person in religious terms. For them religion does not make a person unique or entitled to social treatment. The third variant of neutrality in secularism is substantive neutrality. Substantive neutrality is mainly concerned with the consequences of state action on religion (Ahdar, 2013). Therefore, it asserts that the government should minimize the degree to which it interferes in religion, and it should leave religion to individual choice. This variation of neutrality is sometimes called positive neutrality because sometimes acting neutrally and avoiding interaction with religion will not be enough and they, the government, will have to engage in positive actions. The fourth variant of neutrality in secularism is epistemological neutrality. This version of neutrality encourages the state to treat religion objectively. In

epistemological neutrality, religion is a subjective, non-rational option that must remain in the private sphere. The state treats all non-rational belief systems the same, and thus religion is treated the same as astrology, clairvoyance, and mystical creatures (Ahdar, 2013).

These views of what it means for a secularist state to be neutral can be seen to fall into the different types of secularism. The first interpretation of neutrality, open neutrality, is connected to the ideals of soft secularism. The second and third versions of neutrality, formal and substantive neutrality are related to the ideals of moderate secularism. These two forms strive to treat all distance the government from the religious groups and to treat the religious groups equally meaning no favoritism or discrimination. The fourth and final interpretation of neutrality, epistemological neutrality, is more akin to hard secularism. Epistemological neutrality pushes all religion into the private sphere, believing it to be too subjective, for the governments objectivity. All religious groups are therefore treated the same by being far removed from government. These ideal clearly reflect the ideas embodied by hard secularism.

Although secular states can adopt various neutral policies and in theory is neutral, secularism is nevertheless still criticized for not being inherently not neutral. The argument has been made that no philosophy, or belief system can be neutral in the sense that non is indifferent or unbiased regarding its own nature. Secularism is also criticized for not being because of its unequal effects on religious people (Ahdar ,2013). For example, if a state's secularism keeps religion from the public sphere, it will be easier for a catholic who wears a tiny cross, than a Muslim woman who veils. In this way secularism is not neutral because it affects the Muslim woman more than it affects the catholic one. It is also argued that secular states cannot avoid taking sides in some arguments. One such argument would be between atheists and religious citizens. If an atheist wants a religious symbol taken down from public view, then it alienates the

people of that particular religion. However, if the secular government decides to keep the religious symbol up, then it not only alienates the atheist citizens, but it also alienates citizens of religions different from the religious symbol (Ahdar, 2013). In this problematic situation, there is no way for a secular state to remain neutral.

The argument can also be made that secularism itself favors atheists because some forms of secularism keep religion from the public sphere itself. When thinking about hard secularism, it becomes clear that this type of secularism cannot be neutral because it sees religion as irrational and dangerous. Because religion is viewed negatively, the rationalistic and scientific thinkers are given an advantage and therefore have a position of privilege (Ahdar, 2013). Soft secularism, though it seems neutral, can also be seen as not neutral as it can favor Christianity over other religions (Ahdar, 2013). Some soft secular states leave up crosses in schools or allow Christian prayer in schools where practices and symbols of other religions are not allowed. For these reasons secularism can be seen as inherently flawed on its neutral stances toward the religions in secular states. The actual neutrality of different secularisms will be examined during the analysis of how different forms of secularism affect veiled Muslim women.

### ***Variables Affecting Type of Secularism a State Adopts***

The type of secularism, and within that the laws and treatment of religious groups, a state adopts depends on multiple factors. One of these factors is the history of the religious groups in the state, the government in the state, and the previous interactions of the regime and the religious groups within the state. For example, if a state's government was historically close to a religion and favored that religion along with those associated with it, leading people to be disadvantaged, then that will create a negative view toward religion in the state and push it to adopt hard secularism.

The second variable which affects which type of secularism a state adopts, and the policies toward religion it adopts under those models is the presence of different religious groups within the state. A state historically exposed to religious variance will more likely adopt a form of soft secularism so as to ensure the state provide equal treatment to religious groups, while a state with a lack of a religious plurality will choose hard to prevent a religious power monopoly by distancing it from the government.

### ***Veiling Practices***

Islam did not create the practice of veiling nor is veiling linked to Islam. Many religions such as Christianity, Judaism, and Hinduism incorporate veiling as a practice in some form or another. The practice of veiling was introduced to Islam during the seventh century around the Mediterranean Basin (Amer, 2014). A popular misconception of Islamic veiling is that Muslim women are required to veil. However, there is nothing in the Qur'an, the Hadith, or Islamic law that mandates a Muslim woman be veiled. The majority of veiled Muslim women do so of their own volition for a number of reasons. One reason Muslim women choose to veil is to visibly show that they are Muslim women. Another reason is to show other that they are not only Muslim women, but they are also pious Muslim women. For some women veiling is a status symbol. Historically, women who needed to work for a living would not veil because it would get in the way of the labor they were doing. Therefore, veiling became a sign that you did not need to work and were thus of a higher class (Amer, 2014). During the resurgence of the practice of veiling by Muslim women in Egypt in the 1970's and 1980's, women not only cited their reasons to veil as turning back to a more authentic and religious way of life, but some women also said that they started veiling again as a method to gain freedom. The women, while still concerned with their modesty and reputation, wished to enter the working world, and they saw

veiling as a way to do so (Ahmed, 2011). For some women, more recently, veiling is a means of combating negative stereotypes, such as viewing veils as a source of oppression or a sign of Islamic extremism, about Muslim veiled women and Islam in general (Amer, 2014). These women try to show others that the negative stereotypes they hold about veiled woman are wrong.

There is not one specific form of veiling for Muslim women. Indeed, Muslim women can choose to veil a number of different ways. The way in which a woman chooses what type of veil to wear is usually dictated by her culture and region. One general term for veiling is hijab, literally meaning separation in Arabic (Amer 2014). A hijab, while it can be a scarf that covers the head and neck, can also refer to a larger artifact covering the body, or just implying a form of modest dress (Kader, 2004). Another popular style of veil worn by Muslim women is a niqab is a veil for the face that leaves the area around the eyes visible. It is worn with an accompanying head scarf. A burqa, common in Afghanistan, covers the entirety of the face and body leaving only a small, mesh, or other translucent fabric, screen to see through on the upper portion of the facial veil. The al-amira consists of two parts. The first is a close fitting cap to cover the head, and the second is a tube-like scarf to cover the head and neck. The shayla is a long rectangular scarf. It is wrapped around the head and neck, and then it is either tucked or pinned in place at the shoulders. The khimar is a long, cape-like veil that hangs down to just above the waist. This veil entirely covers the hair, neck and shoulders, but it leaves the face visible. The chador, common in Iran, is a full body cloak worn over the clothing of the wearer when venturing outside. It is often accompanied by a headscarf worn underneath to ensure coverage of the head (In graphics). An abaya is a loose dress like garment worn over the clothing of women which covers the whole body except for the face hands and feet. It can be worn with a niqab or another scarf like cloth to cover the face (Gorney, 2016).

### *What the Veil Symbolizes*

Veiled Muslim women have never just been veiled Muslim women to the West. Instead of being Muslim women who choose to veil, they have historically had their agency taken from them, and then had representative identity forced upon them. During the colonialist era veiled Muslim women were perceived as oppressed women in need of a Western, white male savior to save her from her tyrannical husband, her repressive society, and her backwards religion. This belief about veiled Muslim women was exemplified in orientalist paintings of the time. One such painting was Eugene Delacroix's, *Femmes d'Alger dans leur appartement*, painted in 1834 (Amer, 2014). This painting includes motifs relating to the oppression of veiled Muslim women by the men of their culture, the eroticization of the women by Western men, and the invitation for Western men to save the veiled Muslim women. This orientalist thought that influenced this view of veiled women dictated that the veil was the ultimate proof of not only the backwardness of Islam, but the incompatibility of Islam and the West, solidify its position as the ultimate other.

Hundreds of years later, orientalism is still influencing western interpretations of veiled Muslim women and is dictating what veiled Muslim women represent. In 2001, the United States invaded Afghanistan beginning a fourteen-year occupation of the country. One of the major reasons for the invasion given by the then current president, George W. Bush, was that the United States needed to liberate their veiled women of Afghanistan (Donnell, 2003). To the people of the United States, who had been conditioned by orientalist thought their whole lives, it was clear that the veiled women were oppressed. This conditioning was impacted by not only the lay people of the West, but also prominent Western feminist thought. Western feminists tend to take an ethnocentric approach regarding feminism, meaning that they treat women in different cultures as if they were just variations on a basic theme defined by white western middle-class women

dictating what feminism was and thus assume that their western values are universal. By western feminist logic, a woman who does not act, or dress like them must be oppressed in some way. Western feminists do not veil, and, as they are influenced by orientalism, they see Islam as a backward religion, having equated the practice of veiling with oppression. Western feminist discourse about the veil has created a dichotomy – either one embraces veiling in Islam and, thus, the oppression of women, or they promote the removal of the veil and freedom of women. (Hirschmann, 1997). Motivated by Western feminist and orientalist thoughts, the people of the West, including the United States perceived the presence of veiled women as a reflection of the society they were living in. The veiled women were an indicator an oppressive society, governed by a backwards religion –a religion and culture deemed to be the ultimate opposite of the West. Again, veiled Muslim women were a symbol of the ultimate otherness. The liberation of the veiled Muslim in Afghanistan became part of the United States’ war on terrorism because of the misguided perceptions of the veil, the heightened tension as a result of the events on 9/11, and the resulting perception of veiling as a representation of Islamic Extremists (Donnell 2003). It became a sort of moral justification of war (Ahmed, 2011)

Within the past decade there has been a shift in way the way the West perceives veiled Muslim women. Veiled Muslim women, who were once over sexualized by the white western male gaze of orientalism and were seen as little more than objects that need to be saved by the white men from the backward, oppressive Muslim men, have now become equated with radical Islam and a terrorism (Amer, 2014). Although veiled Muslim women were still perceived as symbols for a period of time after the attack on the World Trade Center on 9/11, there was a noticeable shift in the perception of veiled Muslim women (Donnell, 2003). Veiled Muslim women were now equated with the violent act carried out by a small radical portion of the



Islamic religion. The veil now not only symbolized the ultimate otherness of Islam, but also the threat Islam poses to the West. It became more a source of fear than of an indication of oppression.

### ***Secularism and the Veil***

The veil continues to be a stigmatized symbol associated with the negative aspects of Islam in Western world. It has gone from a symbol of oppression to a symbol of hatred toward the West, and of extremist Islam. The veil has also become a symbol of Islam itself, or at least what people believe Islam to be. In this way, veiled Muslim women have had the identity of an entire religion and culture forced upon them and this has not only led to the negative view of veiling, but also a negative view of Islam for the West. Veiled Muslim women are unique in that they are viewed represent and entire culture to much of the world. From looking at the treatment of veiled Muslim woman, one can also see how a particular type of secularism treats not only veiled Muslim women, but also perhaps extrapolate to their religious group in general.

Although secularism is usually equated to the West, modernity, and Western values such as freedom, democracy, and equal treatment, the literature has revealed that some religious citizens, veiled Muslim women in particular, do not receive equal treatment under the law. Therefore, this study attempts to research and the ascertain the causes of unequal treatment in various forms of secularism. Secularism can be divided into three types –hard, moderate, and soft– and it is clear that the different types of secularism lead to different treatments of veiled Muslim women. However, there are multiple other variables attributing to the treatment of veiled Muslim women. This paper will study not only how the different types types of secularism contribute to how veiled Muslim women are treated, but also the other factors influencing secularism and variables relating to Islam. This paper asserts that the treatment of veiled Muslim

women is not only affected by the type of secularism employed in a state, including the factors that led to the state adopting their type of secularism, which includes the historical relations between religion and the state, the historical number and presence of religious in the state, but also the state's historical exposure to Islam.

### *Case Studies*

For each case I will be examining the factors influencing the treatment of veiled Muslim women along with the treatment of veiled Muslim women by the secular government to examine what are the most causative and indicative of treatment. In these cases, I use sources such as constitutions, laws, and court cases along with secondary sources to ascertain the factors influencing the treatment of veiled Muslim women. The four factors being examined are the type of secularism used by the state, the factors that led to the state adopting their type of secularism they employ, which includes the historical relations between religion and the state, the historical number and presence of religious, but also the state's historical exposure to Islam.

The three cases in this paper will be France, India, and the United States. These cases were chosen because they represent the three types of secularism. France uses hard secularism; India uses soft secularism; the United States uses modern secularism. The three states have diverse religious and governmental backgrounds. Each of the three states is also a democratic country, and has a Muslim minority. There were about 4.7 million Muslims living in France in 2015, which is about 7.5 percent of the population in France (Hackett, 2015). There were about 180 million Muslims living in India in 2015, which makes up about 14.2 percent of the population (Hindus drop below, 2015). In 2015, there were about 3.3 million Muslims living in the United States, which makes up about 1 percent of the population (Mohamed, 2016).

### *France*

The treatment of veiled Muslim women by the French government can be summarized as oppression and limitation. The debate over the veil in France began in 1989 when three girls were suspended from a public school in Creil for wearing hijabs. This event sparked a debates all throughout France about Islam, its rocky relationship relationship with France, racism, and the emancipation of the veiled women. Many French citizens believed that the practice of veiling was at odds with the secular principle of *laïcité*, which was engrained in the French constitution (Abilmouna, 2011). The issue of veiling remained highly disputed in France until 2004 when France passed a law banning the wearing of any conspicuous religious symbols or clothing in the public schools (Law 2004-228, 2004). Although the language of this law does not specifically target veiled Muslim women, it forces Muslim girls who wish to veil to choose between getting an education and expressing themselves as they wish to. Nevertheless, this law disadvantages the Muslim girls who wish to veil more than other religious groups in France as it easier to hide a crucifix on a necklace under a shirt than it is to hide a headscarf. In 2010, France passed a law that banned the use of an outfit designed to cover or distort the face (Law 2010-1192, 2010). This law was quickly nicknamed the “burqa ban” (Amer, 2014). Once again the law did not specifically target veiled Muslim women, but it was clear the law meant for people who have a passion for wearing baklavas in public spaces. The people most affected by this ban were veiled Muslim who chose to wear a niqab. The “burqa ban” went even further than the previous law in that it gave the government the right to fine the Muslim women wearing face-veils in public. Women would be forced to pay 133 euros if fined. In addition to the fine imposed on the veiled woman, anyone who forced a woman to face-veil would be fined 30,000 euros and sentenced to a year in jail (Abilmouna, 2011). In this way, the secular government of France has limited veiled Muslim women’s freedom by systematically banning their veils.

France secularism, otherwise known as *laïcité* falls under the type of hard secularism and, therefore, works to keep religion out of the public sphere in the state. French *laïcité* believes that it is the French government's job to protect its people from religion. It is inherently linked with France's liberty, equality, fraternity, and assimilation (Abilmouna, 2011). Under *laïcité*, the French government preserves neutrality regarding religion by controlling the amount of freedom religious groups are granted, allowing them to control the freedom of religion. The government is able to curb religious expressions in government institutions, including public schools, and the general public sphere. The government, therefore, reserves the power to dictate what religious groups are able to do in the public sphere, and how much these groups are able to be visually represented. The principle of *laïcité* was not in the 1905 law, which separated religion from the state. The Law of 1905, secularizing France, asserted that the French Republic would not recognize nor fund any religious groups (Law of Dec 9, 1905, 1905). This law, while giving equal treatment to religious groups in France, the government hoped to keep all religious groups from positions of power (Robert, 2003). It was not until 1946 when the word appeared explicitly in the Constitution. It was at this point that it became a constitutional principle entailing legal effects (Abilmouna, 2011).

The first factor which led to the adoption of this *laïcité* was the historical interactions between religion and the ruling government. France's adoption of the hard secularist policy of *laïcité* was very much a reaction to the previous dominance of the Catholic Church (Kunz, 2012). Like much of Europe, France's history is marked by the strong connection between the Catholic Church and the Monarchy. The Catholic church's domination of the wealth and lands in France not only created a large anticlerical sentiment in the people, which was reflected in the writings many eighteenth-century philosophers like Voltaire and Rousseau, who considered the Catholic

church to an impediment to their republican ideals, but also a resentment for the monarchy. Republicanism and Anticlericalism became partners in the fight against the clergy and the monarchy (Kuru, 2007). As a result of this animosity between the people and the clergy, the French republic, when it was eventually constructed, was built in opposition to the Church in order to prevent the vast influence and control the Catholic Church in the future. The severe separation of the Catholic church and government was a source of conflict created in 1790, when the Republican French government imposed the Civil Constitution of the Clergy to 1924, until the church accepted the 1905 law enforcing *laïcité* and the severe separation of church and state (Roy, 2007). This acceptance eventually led to the principle of *laïcité* being written into the constitution forty years later. The Catholic Church's complete domination of the government and repression of the people of France that caused the adoption of the policy of severe separation of not only religion and government, but also the separation of religion from the public sphere. Indeed, the the people of France were so opposed to any religion that the government refused to recognize any religious group. The people feared the church having any power or influence over government, so they instituted a secularism that gave the government the power to control religions, and it has led to a governmental policy of repressing religious expression. To the new French Republic, loyalty to France was more important that religion.

The second factor to influence the adaption of the the hard secularist policy, *laïcité*, was the presence of religious groups. In the case of France, there was a lack of a plurality of religious other that the Catholics, giving the Catholics total dominance. Although Protestantism had been present throughout French history, many were persecuted for their beliefs, forcing them to flee to other countries (Roy, 2007). This left an overwhelming Catholic majority, which still exists today. The presence of one dominant majority of a religion lead to the complete domination of

the state and the people within it. The Catholic Church's singular control and repression of other religions and people instilled a distrust and fear of religion causing the Republican government to repress all forms of religion in the future, pushing the idea that the French state should be most important to its citizens, making them French above all else.

While the historical relationship between the Catholic Church and the French government, and the lack of a religious plurality are the two factors that influenced the adaptation of the hard secularist principle of *laïcité*, they, combined with *laïcité*, also influence the treatment of veiled Muslim women today. The fear of a religion dominated France continues today, not only for Catholicism, but for other religions represented in France today, such as Islam. The inherent distrust of Islam is a part of the third factor influencing the treatment of veiled Muslim women.

The final factor to influence the treatment of veiled Muslim women is France's historical exposure to Islam. In the colonial era, France was one of the main colonizers of the Middle East and North Africa, placing it in direct contact with Islam, and, also veiled Muslim women. The French looked down upon the Muslims of the Middle East and North Africa because they were not Western, and were, therefore, uncivilized. They were not Christians, they dressed differently, they spoke different languages, and because they perceived that they did not reflect Western values, according to orientalist thought, they were viewed to be lesser beings. One of their main reasons for the French seeing the Muslim religion and society as backwards was the veiled women (Amer, 2014). Like the rest of the West, as noted previously in this paper, the French saw the veil as a tool of the repression of women, a sign that Islam facilitated a repressive society, and above all, the proof they needed that they were morally superior than the Muslims. Even further, they believed that Islam was a culture and religion fundamentally opposed to the

West, and their values (Banfi, 2016). Because Western men saw themselves as opposite and superior, they believed it was their duty to free the veiled Muslim woman, whom they sexualized in their orientalist imaginations (Amer, 2014). France, like much of the West, was also impacted by the events of 9/11, adding fear to the already existing orientalist perception of Islam (Behiery, 2012). These perceptions led to a very negative view of Islam in France.

This orientalist beliefs and negative views of Islam have not gone away or decreased with time. The government of France still views veiling as an oppressive practice designed to subjugate women of Islam. They believe that the veiled Muslim women still need to be rescued from the backward practice of enforced on them by the Muslim men. In this way they employ ethnocentric western feminism discussed previously in this paper. And it is not only the orientalist sentiment left over influencing the view of Muslim women, but it is also what the veil symbolizes to France –Islam, otherness, extremism (Crosby, 2014). Even today members of the French government are pushing their orientalist ideas that veiled Muslim women are oppressed. In an interview with French media, the French minister for women’s rights, Laurence Rossignol, compared veiled Muslim women to American “Negroes” who accepted slavery (French minister shocks, 2016). This statement clearly shows that the French, and the French in government, still believe that veiled Muslim women are oppressed, even going so far as to liken it to slavery. In this way Islam is being enforcers of slavery, which is a very negative view.

These factors – *laïcité*, the factors leading to the adoption of *laïcité*, and previous exposure to Islam – have influenced the way the veiled Muslim women are treated in France. Historical relations between Catholicism and the government, and lack of religious plurality led to the adoption of *laïcité*, which on its own pushes religion into the private sphere, and the fear of religious domination that constantly reinforces the severe separation of religion from the public

sphere. This fear, along with *laïcité*, is constantly pushing religion into the private sphere, and thus trying to hide away or rid itself of the veil that represents Islam. It is not only the secularist principles affecting the veiled Muslim women, but it is also the stigmatized, orientalist perceptions of the what veil symbolizes pushing the veil out of France. In this way the four factors are working and interacting with each other to create the laws and policies that are limiting, targeting, and disadvantaging veiled Muslim women. Veiled Muslim women are, therefore, not being treated equally.

### *India*

In India, veiled Muslim women are offered the same rights as any other woman or citizen. Within the Indian Constitution all citizens are granted freedom of religion (Indian Const. art, 25). As every citizen of India is given the right to religious freedom, veiled Muslim women are given the right to veil and are protected under the Indian Constitution. There are no laws limiting or impeding a Muslim woman's ability to veil if she wants to in the public sphere. This includes the wearing of a veil –hijab, niqab, or any other type– in governmental or official settings. An example of this would be a veiled Muslim woman's ability to testify in court without any problem or demand to remove to the veil to see the face. In other secular countries with Muslim minorities veiled Muslim women are not allowed to veil in court. In the United Kingdom, government officials, including the Prime Minister, David Cameron, are supporting a ban on the Muslim face veils in court (Dominiczak and Swinford, 2016). This ban would force women to remove their veil or keep them from testifying in court, which is hurting the woman or disadvantaging her.

India employs a form of soft secularism, which welcomes religion in the public and sphere. Indian secularism promoted the idea of cooperation and unity among religious groups in



India (Upadhyaya, 1992). Article 25 of the Indian Constitution gives the right to individual freedom of religion. This same article also gives the state the power to intervene in Hindu religious institutions (Indian Const. art, 25). An example of the way they intervene with Hindu institution is in Article 17 which required the state to abolish untouchability, one of the more problematic aspect of Hinduism (Sen, 2007). In the making of the constitution it was decided that each religious group within the state would be given equal respect although this position is speculated to fluctuate between *sarva dharma sama bhava*, which advocates good will toward all religions and *dharmanirapeksata*, which is religious neutrality (Bharucha, 1998). The first factor in that influenced India's adaption of soft secularism was the relationship of the religious groups and the state. Ancient India was home to a multiplicity of world views, which allowed the tradition of freedom of religion to exist without hostility or a singular religious dominance (Sen, 2014). During the British Raj, the British colonizers favored the Hindu government agents over Muslim and systematically removed Muslims from positions of power (Stockwell, 2008). And because the British colonizers needed the support of the intellectual upper class Hindu population they did not make great attempts to control their religion (Lewis, 1962). Because the British colonizers favored a group, while previously all religious groups had experienced mostly equal treatment, the Constituent Assembly, made efforts to return to the status quo of multiple religious groups living in harmony by employing soft secularism.

The second factor leading to the adaptation of soft secularism was the presence of a plurality of religious groups in the Indian state. While there is a Hindu majority in India, there is also a Muslim, Jain, Sikh, Christian, Zoroastrian, and Jewish minority (Sen, 2014). This religious plurality was not only present in more recent history, but existed for thousands of years and led to a society where freedom of thought was valued. Even under Islamic rulers of the Mughal

Empire favored a secularist approach because of the religious plurality (Vijapur, 1999). This plurality of religious groups created a demand for freedom of religion for years before India officially became a state, and was thus influential in the decision to become a secular democracy. Framers of the Indian Constitution, like Gandhi, Nehru, Ambedkar, and Abul Kalam Azad, believed that it took multiple religious groups to come together and decide to be secular (Jahanbegloo, 2011). In this way religious pluralism and tolerance became the founding principle of the Indian secularism. In the presence of so many religious groups, Gandhi understood that people lived by a set of beliefs, and these beliefs, whether they were rooted in secularism, atheism, or spirituality, need to be accommodated in a secular policy, and they all need to be respectfully and equally by the government (Sen, 2014).

The final factor influencing the treatment of veiled Muslim women in India is the relationship with Islam. Islam has been in contact with India since ancient times and has coexisted peacefully for thousands of years (Sen, 2014). Yet during and after the partition of India and the formation of Pakistan animosity raged between Hindu and Muslim communities. Some scholars attribute the Hindu's negative feelings toward Muslims as a leftover resentment of Islamic ruler of the Mughal Empire, and the British colonizers policies which favored Hindu citizens over Muslim citizens during Indian occupation (Adam and Anwar, 2005). After the partition Muslims who remained in India were considered potential traitors and treated with suspicion (Assayag, 2003). Since the establishment of the Indian state in 1950 there have been multiple attacks on Muslims. One of the most infamous attack on Indian Muslims was the the destruction of the Babri Mosque in 1992, a site of contention between the Muslim and Hindu groups. The destruction of the Mosque by Hindu Fundamentalists incited Hindu-Muslim riots in multiple Indian states in which thousands of people were killed (Majid, 2015). This event

highlights the animosity toward Muslims by Hindu Fundamentalists, but it is important to remember that the actions of a few are not representational of an entire religion, and certainly not a representation of the government or Constitution. Indeed, actions moving to suppress minorities and implement a Hindu dominated India by the BJP are met with pushback from the country in the form of lost popularity and lost elections (Vajpey, 2016). In the face of this longstanding animosity toward Islam the soft secular principles India was founded on continue to protect Muslim Indians. It also has not led to any laws against Muslim women veiling in public spaces.

The longstanding plurality of religions in India under different rulers throughout the years led to the adaption of soft secularism. Indian secularism works to protect individual religious freedom, and aims to treat and respect each religion equally. This means that veiled Muslim women are protected under the Constitution of 1950, preventing any laws against women veiling in public or governmental spaces. Even in the face of animosity against Muslims, veiled Muslim women are not persecuted under the law. This may be attributed to the centuries long exposure to the religion of Islam in India, or the presence of a veiling tradition in the majority religion, Hinduism. It is also a possibility that the secularist sentiment and acceptance of all religions in India may be more impactful than the animosity toward Muslims. Nevertheless, veiled Muslim women in India are treated equally.

However, it should be taken into account that while India has a Hindu majority, that does not represent the entire country. Nor do all Hindus embody anti-Muslim sentiments. It should also be noted that although the BJP, the party currently in power in India, draws from Hindu Nationalist ideas, they are not the laws or constitution. Although they may embrace anti-Muslim

sentiment, they are not the Constitution. This may, in combination with the multi-religious past may be more affective than anti-Muslim sentiment.

### *The United States*

Veiled Muslim women in the United States are afforded the same rights as any other citizen under the United States Constitution. The First Amendment of the Constitution asserts that congress is not able to make any law regarding the establishment of religion, nor is able to create a law prohibiting people's practice of religion (U.S. Const. amend. I). Thus, the United States has no official religion, and grants people, including veiled Muslim women, religious freedom. The Fourteenth Amendment of the Constitution also guarantees United States citizens equal treatment and protection by the laws (U.S. Const. amend. XVI). This amendment prevents federal and state officials from discriminating against veiled Muslim women. Under the Religious Freedom Restoration Act, the interests of religious groups, including veiled Muslim women are protected (Religious Freedom Restoration Act, 1993). An example of how veiled Muslim women are treated by the United States government is a court case between Samantha Elauf and her potential employer, Abercrombie and Fitch. Ms. Elauf wore a black headscarf to an interview with her potential employer, and was not hired because the headscarf did not reflect the look of the company. Although Ms. Elauf did not specifically address her motivations to wear the headscarf in the interview and the company used that fact to argue it is not the employers job to religious motivations behind fashion choices, the Supreme Court ultimately sided with Ms. Elauf. Justice Scalia, cited Title VII of the Civil Rights Act of 1964, which prohibits an employer from refusing to hire an applicant based on avoiding the accommodation of a religious practice that can accommodated without undue hardship (EEOC vs Abercrombie, 2015) as a reason for the courts decision. Title VII of the Civil Rights Act of 1964 prevents an

employer from making an applicant's religious status, confirmed or unconfirmed, a factor in employment decisions (Civil Rights Act of 1964, 1964). The ruling of this case was congruent with the ideal of right to religious freedom given in the Constitution (Liptak, 2015).

The case against Abercrombie is representative of the treatment veiled Muslim women in that they are provided protection under the law of the Constitution, and are, therefore, afforded the same rights and protection as all other citizens meaning they are neither advantaged or disadvantaged. However, there are limitations to their fair treatment under the law. A driver's license is a common form of identification in the United States, and for a long time pictures were not a mandatory on the physical license and the question of whether the whole face was necessary for the identification was not the issue. However, after the events of 9/11, some states are requiring the identification and driver's license pictures contain the person's uncovered face, citing National Security as the reason for this rule (Amer, 2014). While some states do offer religious accommodation for the license pictures of veiled Muslim there are still those that do not. One case of unequal treatment was when a Florida court ruled that a woman, Sulthaana Freeman, was not able to remain veiled in her driver's license picture even after going to court for reasons of National Security (Freeman v. Florida, 2003). This case reveals that the law will uphold equal treatment and religious freedom of veiled Muslim women up until a certain point, which in the case of the United States is National Security.

The United States employs moderate secularism by ensuring the equal treatment –up until a point– of all of its citizens, and in doing that it allows religious freedom and equal treatment to all religious citizens. As previously reported, the Constitutional Amendments state that the government will not institute a state religion, nor will it prohibit any other religious group within the state. It will also treat each citizen equally under the law. Therefore, it aims to treat all

citizens as neutrally and equally as possible. The government also tries to not involve itself with religious affairs, and there is a clear distinction between religious groups and the state. Yet United States is still a fairly religious state (Dent, 1999). The moderate secularism employed has allowed religions to flourish in the public sphere up until a certain point. The first factor that led to the adoption of this type of secularism that the historical interactions between the church and the state. The United States started as a British colony of immigrants, some of whom were seeking relief from religious prosecution. Of the thirteen colonies, only six had an established Anglican church. The remaining seven either had Congregational churches or no established church at all. Even in the six colonies with Anglican churches religious control was largely ineffective. These conditions not only influenced the secular elite's –Thomas Jefferson, James Madison, George Washington etc.– toleration of religion in the public sphere, but also the religious groups' openness to the separation of church and state at the federal level (Kuru, 2007). It is also worth noting that the people of the American Colonies were also not subject to the oppressive ecclesiastical institutions, such as the Catholic Church, that were present in Europe (Warner, 2010). Religion had not dominated the lives of the colonial citizens the way the catholic church had in France, so there was not the same intense fear or hatred. This left the government open to allowing religion in the public sphere while still separated from the government.

The second factor that influenced the United States adaption of moderate secularism was the number and presence of religious groups. At the time of its inception, the United States had a plurality of religious groups, although most were still Christian (Kuru, 2007). Nevertheless, the multiple Christian groups brought a need for equality among them, and the number of religious groups in the United States grew as time moved forward and immigrants moved to the country

enhancing that need. It also led to need for enlightened political thought. The newly formed government of the United States was greatly influenced by the secularist thinkers of the enlightenment (Kosmin and Keysar, 2007). The combined ideals of Locke, Smith, and Jefferson along with the thought of some Protestant thinkers –Williams, Witherspoon, and Backus– that lead to the particular brand of secularism in the United States today (Kuru, 2007). However, the fact that there were mainly Christians in the Colonies may have led to a greater willingness to curtail religious freedoms of other non-Christian religions, such as Islam.

The United States' historical interactions with Islam and the Middle East were fairly limited and was not impactful until the twentieth century when it set its sights on the oil the Middle East contained. The United States, like the rest of the Western countries, had an orientalist view toward the Middle East and Islam. That is, they also viewed veiled Muslim women as oppressed, and they believed that the presence of veiled Muslim women indicated their society was oppressive and backwards. The idea that the women were oppressed and needed to be saved by the civilized West was and affecting perceptions about Islam and veiled Muslim women even up until 2001 when it was used as a reason to invade Afghanistan (Donnell, 2003). Bush asserted that they, the United States, need to invade Afghanistan to save the oppressed veiled women. However, there was also been a shift in the way the United States views Islam after the events of 9/11. Islam went from the backwards, uncivilized other to the threatening ultimate other. The religion became associated with terrorism and hatred of the West (Altwaiji, 2014). Thus the interactions with Islam has produced negative views of Islam in the United States.

The lack of one religion dominating the state and the people of the colonies that became the United States in combination with multiple religious, although mostly Christian, groups, and

the secularist thinkers present at the inception of the country lead to the moderate secularism that the United States employed. The government separated itself from religious groups and guaranteed freedom of religion to the people and protection under the law as it did not have intense fear of religious domination. This foundation has allowed other laws and acts to be passed further protecting its peoples' religious freedoms. In this way, the government inherently protects Muslim women's right to veil as the government attempts to treat all religious persons equally. The negative view toward Islam has had some negative effects on veiled Muslim women, such as some states requiring people to include their entire face in identification photos, citing National Security concerns which can disadvantage veiled Muslim women who cover their face and keep them from pursuing driver's licenses. Although, the government and laws of the United State try to treat all citizens, including veiled Muslim women, equally and respect religious freedom, they do cut freedom short when it is a concern over National Security, which can be attributed to the events of 9/11 and the ensuing animosity toward Islam. Therefore, in the United States, veiled Muslim women are treated equally unless there is a fear for National Security.

***Conclusion: The Importance of History***

The case studies within this paper indicate that when a state has a negative views or perceptions of Islam, it is the type of secularism that the state employs that will dictate how veiled Muslim women are treated. In the case of hard secularism, veiled Muslim women will be subject to negative effects like oppression or limiting of religious expression, and ultimately, unequal treatment under the law. Soft secularism will afford the same right to religious freedom to veiled Muslim women, then to any other religious person. There will be no governmentally instituted negative effects on them. They receive equal treatment under the law. Under moderate



secularism veiled Muslim women will be given fair treatment under the law, but their religious freedom will be curtailed in extremes cases such as National Security.

However, it is important to recognize the effects of the factors leading to a states adaption of type of secularism as they are not only integral to adaption of type of secularism, but they also could impact the treatment of veiled Muslim women. The causes of the adoption of a type of secularism in a state usually indicate the attitude toward religion as a whole, and therefore how veiled Muslim women, who visibly represent their religion, are treated. In the case of France, the total Catholic dominance lead to a rejection and fear of religion. This lead to a ban on the religious symbol in public spaces in France. The fear and distrust of religion in religion in France could also have residual effects for any religion, especially Islam as it also has the connotation of the ultimate other. India's history was always marked by a plurality of religions and religious freedom was never questioned, which gave way to adaption of tolerance and respect and participation of all religious groups. The presence of veiled Muslim women does not pose an issue in any public setting in India. The United States did not have the negative experience with religion France did. In fact, religion had very little influence over the government in the colonies leading the founders of the United States to be open toward religion in the way that they will grant anyone religious freedoms within their personal freedoms. This has lead to government enforced equal treatment, but also government restraint of religious freedom.

The number and presence of multiple religious groups will also impact what type of secularism the state chooses to adopt. The more religious groups in a state will create a need for religious toleration and recognition by they government. It will also create a need for equal treatment. A state with a more homogeneous population will thusly lack the need for recognition and protection. In the case of India, there were many religious groups and many religious

peoples in the country for hundreds of years, which eventually led to the adoption of soft secularism allowing visibility and equal treatment. However, in France there were mostly Catholics, which meant there was not a need for equal treatment of religions. That fact, in addition with the intense fear of the Catholic Church's domination lead to the adoption of a hard secularist policy trying to exclude all religious groups. The United States had multiple groups of Christianity giving it a little diversity, which lead to the adoption of moderate secularism. This Christian dominance, and specifically lack of representation of non-Christian religions, could also have had an effect on limitations to religious freedom (National Security) the United States imposes on veiled Muslim women.

While each state studied had negative views toward Islam it did not always result in the same treatment toward veiled Muslim women. In France, veiled Muslim women did not receive equal treatment under the law. In India, veiled Muslim women did receive equal treatment under the law. And in the United States, veiled Muslim women were treated equally under the law for the most part. It should be noted that there was a difference in amount of time the states had been exposed to Islam. Whereas India has been in contact with Islam for over a millennium, France and the United States have only been in contact for the past few hundred years. This difference in time of exposure may have impacted views toward Islam. Also, France and the United States' negative view toward Muslims has also been greatly impacted by orientalism and, more recently, the effects of 9/11 and associations with terrorism and hatred of the West, while India's negative view towards Islam can be perceived as more longstanding, and while it has had Western influences forced upon them by British colonialists, its animosity is not exactly the same as the Western cases. The reasons for negativity toward Islam may also have influence on the way veiled Muslim women are treated.

### *Moving Forward*

Further research on the factors influencing the treatment should include the analyses of other types of secular countries. The use of hard, moderate, and soft secularism to group countries was just one model of possible analysis. Future studies should endeavor to include forms of secularism in which the state has an instituted national religion. Denmark is one possibility for a secular country with an instituted religion. Another possible direction for future research would be comparing treatment of other types of veiled women from other religions such as Hinduism or Judaism or Catholicism. Such research would better indicate the significance of negative views toward Islam and of the states neutrality toward multiple different groups of religions.

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