

Dianne Post
1826 E Willetta St
Phoenix, AZ 85006-3047
602 271 9019
postdlpost@aol.com
www.diannepost.net
Published at RSN (Reader Supported News)

July 7, 2013

FROM THE BURQA TO THE THONG: CONTROL OF THE BODIES OF WOMEN

Introduction

On a scale of one to ten, rate the oppression of women symbolized by the niqab (full covering), burqa (face showing), the headscarf, the mini skirt, the see-through top, the topless bathing suit and the thong. Quick, which is worse? In fact, all represent the manipulation and control of women's bodies by men. They simply go in different directions – cover or uncover – for different reasons – religion, culture, fashion – but in any event, women's bodies are eroticized and manipulated by men for their purposes both to respond to stereotypes of women as the source of all evil and responsible for men's sexual actions. Whether it's the Islamists or Russians who claim a woman showing an ankle or wrist is provoking a man to rape her or whether it's the Steubenville rapists claiming that what she wore and what she drank made their actions her responsibility, the blame falls on women and their bodies.

Covering up

In some countries, women are ordered to cover up.¹ In Chechnya, women can be attacked for not wearing a headscarf or covering up enough. It has gotten worse since the 90s when the Russians left the country. Even if the morals police hit the women because they are allegedly not properly dressed, the women don't report it because then their brothers are obligated to take action against the abusers and someone will be killed. Two girls were fired at with a paintball gun in a drive-by shooting by men who wore the uniform of the president's guards. Later, the women found fliers in the streets telling women it was their obligation to wear a headscarf because the indecent proposals women hear on the streets are – of course – their fault for not covering their head. The warning was explicit. "Today we have sprayed you with paint, but this is only a WARNING!!! DON'T COMPEL US TO HAVE RECOURSE TO MORE PERSUASIVE MEASURES!!!" The president claimed to not know the men but offered them his thanks.

¹ Chechnya: choked by headscarves, Source: [openDemocracy](http://www.opendemocracy.net), 05/10/2010 4:17 pm, [Tanya Lokshina](http://www.opendemocracy.net), 27 September 2010.

During Ramadan in Chechnya leaflets urged men to take charge of how their women looked. The women talked among themselves that men didn't protest during the war when women rescued them, protected them and worked till they dropped to feed the family. Now, suddenly, they have remembered they are men and in charge.

In their "concern" for women, men have grabbed the girls' arms and pulled their hair. One girl was dragged into a car and never seen again. A group of men pulled another by her hair until another woman intervened.

In Iran, the law has gone beyond banning certain clothes but also bans bright clothes, long nails, tattoos, caps or hats, tight and short jeans, tooth gems, tight overcoats and body piercing except earrings. ²

In Nigeria, a bill was introduced to stop women from dressing indecently. ³ Police have harangued women wearing knee length skirts accusing them of being immoral, prostitutes and the cause of all Nigeria's problems. Women as the cause of original sin is a well-worn theme.

The Bill for an Act to Punish and Prohibit Public Nudity, Sexual Intimidation and Other Related Offences in Nigeria focused not on harassment or intimidation of women but women's harassment and intimidation of men by dressing to entice them. ⁴ Once again that theme of women temptress and source of all evil arises in this battle between feminists, cultural conservatives, and faith-based fundamentalists. The Nigerian Feminist Forum was among the first to condemn the bill, which fortunately never passed. It would have required that necklines must be two inches or less from the shoulder and the waist of a female over fourteen must not be visible.

Some supporters claimed that culture must be preserved and miniskirts aren't Nigerian culture. The author of the article claimed that rape, incest and sexual abuse are not Nigerian culture either and they occur all the time. However, I would argue that rape, incest and sexual abuse IS patriarchal culture – in Nigeria as well as the U.S. and around the globe. Rape, incest and sexual abuse stand at the far end of the continuum for the control of women. When women rebel, violence is always available and will be used and every woman in the world is aware of this. Violence is the boot camp to let us all know what our place is.

²<http://www.irishtimes.com/newspaper/world/2011/0111/1224287235653.html>
<http://in.reuters.com/article/idINIndia-54056220110110>.

IRAN ENFORCES STRICTER ISLAMIC FEMALE DRESS CODE AT UNIVERSITIES
TEHRAN, (Reuters).

³ Nigeria's immorality is about hypocrisy, not miniskirts, Source: [Guardian](#), 30/11/2010 9:48 am, Chimamanda Ngozi Adichie.

⁴ Two inches below the neck, Source: [openDemocracy](#), 07/12/2010 4:02 pm.

The author also pointed out that men and women holding cellphones and driving imported cars like to tell others, especially women, that they should conform to some idea of African culture. But those holding the cellphones mean previous colonial ideas, not real African ones. In pre-colonial West Africa, gender roles were fluid, there was little differentiation in Yorubaland, and Igbo women could marry women. Women didn't worry about blouses that were less than two inches from the shoulder; they were bare-breasted.

The Russian Orthodox Church, closely bound to the country's leaders, proved itself no slouch when it comes to attempting to control women.⁵ They have proposed an "all-Russian" dress code notably for women who paint their faces and "confuse the street with striptease". An Archpriest claimed that a woman in a miniskirt can provoke a Russian man into rape. When I worked in Russia in 1998-2000 and 2007-2009, I commonly heard, "Well, she provoked him into (assault, rape ...) so he's not responsible." The provocation could be what she wore, what she said or even what he thought she thought.

Feminists protested⁶ but the Archpriest responded that provocative clothing not only provoked rape but short marriages, "ratlike divorces" (whatever those are), destruction of children's lives, solitude, madness and life-catastrophe. That's a lot of responsibility for a short skirt! Too bad men don't have the same responsibility for their behavior. One commentator suggested women should wear three dresses – one on top of the other. The Moscow Helsinki group called the proposal nonsense.

Uncovering

Headscarves

In other places, women must be uncovered whether it's a headscarf or a burqa.⁷ In Azerbaijan, after the government banned headscarves in school, parents complained that the scarf was voluntary and girls would be prohibited from going to school if they could not wear it, or they would have to go to private school which costs more. The government responded that it was Iran who was stirring up the issue. The school also relied on the law that school uniforms are required.

⁵ <http://www.nytimes.com/2011/01/19/world/europe/19russia.html? r=1>, RUSSIA - ORTHODOX CHURCH OFFICIALS' COMMENTS ON WOMEN – DIVISIVE.

⁶ Pro Feminism - Russia - <http://www.zafeminizm.ru/>.

Feminist organization "Pro Feminism" of Russia calls for signatures for a petition opposing the discriminatory statements of the Russian Orthodox Church, By ELLEN BARRY, January 18, 2011.

⁷ WUNRN <http://www.wunrn.com>, Institute for War & Peace Reporting <http://iwpr.net/sr/node/49635>, AZERBAIJAN - HIJAB BAN FOR SCHOOLGIRLS IS CONTROVERSIAL, By Aytan Farhadova - Caucasus, 17 December 2010.

A battle has been going on in Turkey over whether women can or must wear headscarves in public. In the 1980's the government, trying to uphold the secular state, prohibited women from wearing headscarves in universities. A Turkish woman took her case to the European Court of Human Rights in 1999 because she was prohibited from wearing her headscarf to the university, which she claimed interfered with her right to freedom of religion and education. She had worn her headscarf for four years of her medical education. In her fifth year at a new school, they began to deny her admittance to classes and exams because she insisted on wearing the headscarf. After demonstrations by herself and others, she was suspended from the university but reinstated only to withdraw and finish her studies in Vienna.

The lower court held there was no violation of the European Convention on Human Rights, and she took the case to the Grand Chamber who agreed in 2005. Wearing the headscarf to universities only started in the 1980's where veils and headscarves were banned because of the fear of interference with the secular state and fear that non-Muslims or non-practicing Muslims would be discriminated against. It was feared that religious battles would flare up in classes and the state would then not be neutral regarding religion.

In an earlier Turkish case, the Court had said that measures to prevent fundamentalist groups from forcing their wishes on students were not an interference with religion. In a case in Switzerland, the court had earlier said that the mandate of a headscarf in Islamic religion could not easily be squared with women's equality and could send a proselytizing and negative image to young children about the role and equality of women. The court viewed that in fact the prohibition of the headscarf gave protection from extremist movements.

The court gave Turkey the margin of appreciation to manage its own affairs i.e. fight fundamentalism and extremism by this method of prohibiting the visible symbol of headscarves for women on campus. The court held that the acts were proportional and justified in principle as related to an acceptable aim.

But in December 2007, the Turkish constitution was changed by a large majority in parliament to allow the wearing of headscarves at university. On 25 February 2008, some Turkish universities defied the law and refused admission to the university if a woman was wearing an Islamic headscarf. The opposition party challenged the change at the Constitutional Court arguing that it violated the division between religion and state. In 2008, the AKP (the current prime minister's party) introduced legislation to reverse restrictions on the headscarf but the Constitutional Court invalidated the law.

Women's groups have been dealing with the fallout from this law. Some women are happy to be able to freely wear their headscarf and others are happy that there is a choice. But in general the issue has caused rifts among Turkey's women's groups. Women's groups affiliated with secular institutions have fought against the lifting of

the ban, Islamic women's organization have fought for it, and feminist women's groups are stuck in the middle unable to come up with a position that respects all sides. The move has set back progress that secular women had made working with Islamic women.

It has also given secular and feminist women cause to fear the so called liberal Islamic Justice and Development Party (AKP) whose draft constitution deleted an article guaranteeing equality between women and men and substituting it with an article about women being in need of "special protection" – like children, elderly and disabled.

In 2011, the headscarf reared up again as a problem in Turkey when an administrative court banned female candidates for academic posts from being veiled during an admission examination.⁸ The student Selection and Placement Centre passed an initiative to allow the wearing of the headscarf contrary to a strictly observed ban. The Education and Science Workers' Union then filed a complaint with the Council of State. The Council decided to maintain the ban.

Several male politicians argued to and fro. To maintain the secular nature of Turkey, both the headscarf for women and the fez for men were banned from public life. When Islamic parties arose in the 1990s, the bans were more firmly enforced. "Since 1997 women covering their head are not allowed to enter public buildings, universities, or military premises, including military hospitals. Many who insisted on wearing the headscarf have been deprived of higher education, or have had to migrate abroad to pursue their studies and careers." The Islam-rooted AKP that has twice won elections since 2002 seeks abolition of the ban. While 65 percent of Turkish women wear the headscarf, no research has been done to ascertain why or what it means to them.

In March of 2010, Kosovo banned headscarves in state schools with the result that at least one 17-year-old girl was forced to abandon her education. The scarves were banned in accordance with the constitution that declares Kosovo a secular country. The Deputy Foreign Minister, a woman, says the scarf is not an element of identity but a sign of submission of female to male and not a choice. However, they are allowed in universities.⁹

One case concerning the headscarf has come before the Committee on the Elimination of Discrimination Against Women but was rejected because the

⁸ <http://ipsnews.net/news.asp?idnews=54292>, TURKEY - HEADSCARF CONTINUES AS POLITICAL ISSUE, By Jacques N. Couvas, ANKARA, Jan 31, 2011 (IPS).

⁹Headscarf ban sparks debate over Kosovo's identity, Source: [BBC](http://www.bbc.com/news/24/08/2010), 24/08/2010. 12:59 pm, 23 Aug. 2010, By Mark Lowen, BBC News, Pristina.

applicant had not exhausted domestic remedies. ¹⁰

Burqa

Belgium implemented a legal ban on wearing the Islamic burqa in public. A woman can be fined nearly \$200 or face up to seven days in jail. ¹¹ The rationale given was for safety reasons, because a person cannot be identified when their faces are masked or hidden completely. The law has an exception for those who wear a mask for work or get a police permit for festive occasions. However, it was also mentioned that women could become “slaves to a question of religion” and the proponent of the ban stated that the Koran did not require it but that it was imported from Pakistan or Afghanistan.

Democratic values and the Enlightenment were also touted since wearing a burqa was “not compatible with an open, liberal, tolerant society”. Those opposing the ban claim that in fact the ban violates tolerance by trampling the rights of Muslims. Belgian Muslims have filed a suit against the law claiming that it may force them to remain at home thus excluded from society.

Legislation in the Netherlands limits the wearing of burqas and other total coverings on public transport or in schools. The arguments for the ban are security, women’s rights and integration into western society. There is a penalty for Muslim men who force women to wear the burqa, which has recently been increased to four years imprisonment.¹²

Some Muslim women do want to wear the full veil, including converted French citizens, and claim that their choice is also part of women’s rights. A Frenchwoman, who took to the burqa entirely through her own volition, protested: “France is supposed to be a free country. Nowadays, women have the right to take their clothes off, but not to put them on.” ¹³

Especially in France, with its famous nude beaches, we see the opposite end of the pendulum. Likewise many American women on sunny California shores are wearing virtually nothing disguised as a “thong” bathing suit. But does that express

¹⁰ Decision of the Committee on the Elimination of Discrimination against Women under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (thirty-fourth session) , *0627484* concerning Communication No. --8/2005, Kayham v. Turkey, dated 20 August 2004.

¹¹ Belgian burqa ban comes into force, By Paul Bond 2 August 2011.

¹² See *Euronews* 30/01/2010 <http://www.euronews.net/2010/01/30/burqa-ban-debate-gains-momentum-across-europe/>.

¹³ See

http://www.dailystar.com.lb/article.asp?edition_id=10&categ_id=5&article_id=111679.

women's freedom and agency or does it reflect societal expectations of what women should look like and pressure from males to create a certain type of body? When men like legs, shirts got shorter. When men like breasts, breasts got bigger. When men like derrieres, pants get tighter. Girls as young as sixteen are having plastic surgery to meet culturally defined (read male-defined) visions of what the female body should look like.

Issues of choice and agency for women conflict with issues of discrimination, but the argument is that the burqa can be banned on other grounds as incompatible with national values and public safety.¹⁴ If women's freedom and equality is a national value, surely there are other measures that need to be taken e.g. to end violence against women, discrimination in the workplace and legalized prostitution that establishes a class of women who are legitimate targets for sexual violence.

In 2010, the French parliament voted to totally ban the wearing of full face-covering veils in public spaces. A violation may carry a fine of \$190 but men forcing women to cover themselves may be punished with a penalty of \$38,000 and a year in jail. Amnesty International says that such a ban violates the rights to freedom of expression and religion.¹⁵

The veils will be allowed when worshipping in a religious place or traveling as a passenger in a private car unless the person with the veil is driving and does not have a clear field of vision. Other exceptions available are for motorcycle helmets or fencing masks as well as parades, celebrations or places of worship. In addition to a fine, women will be given a citizenship class to remind them of secular France and gender equality.¹⁶

President Sarkozy's former minister for women's rights claimed the concern was for the freedom of women because the burqa is the symptom of the regression of women. While some say the law stigmatizes Muslims, supporters say the veil is

¹⁴ WUNRN, <http://www.wunrn.com>, Intersectionality of Freedom of Religion or Belief & Women's Rights: Burqa Issue in the EU, By Willy Fautré, *Human Rights Without Frontiers*.

¹⁵ <http://www.theepochtimes.com/n2/content/view/39114/>, FRANCE - NATIONAL ASSEMBLY LOWER HOUSE VOTES OVERWHELMINGLY FOR BURQA BAN - SENATE YET TO VOTE, By Marco 't Hoen - July 14, 2010.

¹⁶ <http://www.guardian.co.uk/world/2011/mar/03/niqab-ban-france-muslim-veil> FRANCE - FULL-FACE VEILS LAW TO ENTER EFFECT - CONTROVERSIAL Veils that cover the face to be illegal from next month, <http://www.timesonline.co.uk/tol/news/world/europe/article7113490.ece>, May 1, 2010, FRANCE - LAWMAKERS FOCUS ON HUSBANDS OF MUSLIM WOMEN WHO WEAR VEIL, Adam Sage, Paris.

what stigmatizes Islam. ¹⁷ The focus on religion was evident from President Sarkozy's order prohibiting halal food options in cafeterias, outside prayer and minarets and lauding the "Christian heritage of France." In those terms, it sounds more like a religious war played out on women's bodies as so many wars are. This ban comes after the 2004 ban of headscarves and other conspicuous religious symbols from state schools and went into effect in spring 2011 after top constitutional authorities cleared the bill as being compatible with the French Constitution. ¹⁸ The government called the burqa "a new form of enslavement". The French backed the ban by a four to one margin. Interestingly, majorities backed the burqa ban in Germany, Britain and Spain but two out of three people opposed it in the U.S. In 2011, the Ninth U.S. Circuit Court of Appeals ruled that women were allowed to wear religious headscarfs while in pretrial detention. ¹⁹

Spain also voted in 2010 to ban the burqa to outlaw "any usage, custom or discriminatory practice that limits the freedom of women." Under this language, many discriminatory practices could be attacked including ones Spanish voters would no doubt disapprove e.g. who does the majority of housework and child care!²⁰

Nakedness

Two cases from the U.S. courts illustrate how women's bodies are treated differently when women seek to control their own bodies. In City of Erie v. Pap's A.M., ²¹ the court held that erotic dancing was expression at the outer limits of the First Amendment. But the court said that simply being nude was not protected because it delivered no message. Rather the message was eroticism involved in the dancing. The message protected was not women's ability to be nude, but women's sexual appeal to men. In other words, the message was not what the speaker (the woman) said, but what the audience perceived. The court shifted emphasis from the (female) speaker to the (male) listener.

A second question is how did the court come to the conclusion that the message of nude dancing was eroticism? Whose viewpoint are they taking, the speaker or the

¹⁷<http://www.google.com/hostednews/ap/article/ALeqM5hK82ydQcO5FBaL5caQTmftPnyNLwD9FKQVE00>, FRANCE - PARLIAMENT RESOLUTION BASIS FOR VEIL BAN, By ELAINE GANLEY (AP) - 11 May 2010.

¹⁸ 14 Sept. 2010, French burqa ban clears last legal obstacle, By the CNN Wire Staff.

¹⁹ Muslim Woman's Right to Wear Hijab in Custody Upheld; DOJ Sues California to Protect Sikh Man's Right to Wear Beard in Prison, Thursday 24 March 2011
by: Stephen Rohde, t r u t h o u t / News Analysis.

²⁰ Spain's Senate Votes to Ban Burqa, By RAPHAEL MINDER, Published: June 23, 2010.

²¹ U.S. Pa 2000, 120 S. Ct 1382, 529 U.S. 277, 146 L. Ed. 2d 265.

hearer? The court could just as easily have concluded that the message being sent by nude dancing was objectification of women, degradation of women, or product sales. Why did the court decide it was erotic? The court took the view of the listener, the men watching, not the view of the speaker contrary to most First Amendment cases.

Contrast that to when women protest in the nude to send a message opposing women's inequality, they are denied First Amendment protection. In Craft v. Hodel²² the women argued that refusing to allow nude bathing in a national park violates the First Amendment right of free expression and the Fifth Amendment right of equal protection. The court held that public nudity cannot be understood to convey a message to those who view it. In other words, nude dancing in a bar conveys a message. But nude protest on a public beach conveys no message. This stands First Amendment jurisprudence on its head. Protest is political speech and should be protected. Money making activities in a bar should not be protected. The court opined that public nudity was offensive so the public needed to be protected. But it's all right in a bar? In fact, the court made a viewpoint distinction. When the message was women's erotic appeal to men, it was permissible. When the message was women's opposition to men, it was banned. Very simply, the government censored women's speech based on viewpoint and content.

Craft argued that the equal protection clause is being violated because men can go shirt free and women can't. The court claimed that the purpose of the prohibition was not to preserve or perpetuate the female breast as a sexual object but to protect the public from an invasion of their sensibilities and merely reflects current community standards as to what is nudity. Since current community standards are those of the patriarchy formed by ubiquitous pornography, the community standard is that the female breast is a sex object. In other countries, including France and the Zulu's of South Africa, women go topless with no more fanfare than men going topless. To allow the "community" to infringe the rights of a minority is to violate constitutional law.²³

In another case by Nikki Craft,²⁴ she and other women who were arrested for having bare breasts in New York argued that the law violated equal protection because it only prohibited women from being bare breasted and not men. New York is one of the two states that criminalized women's bare breast in a public place but did allow bare breasts in men's establishments. The court completely avoided the constitutional questions and dropped the charges against the women. In the

²² D. Mass 1988, 683 F. Supp 289.

²³ Griffin v. Breckenridge 403 U.S. 88, 91 S. Ct. 1790, 29 L. Ed. 2d 338 (1971).

²⁴ People v. Craft, (N.Y. Co. Ct. 1991, 564 N.Y.S. 2d 695, 149 Misc. 2d 223, reversed 600 N.E. 2d 232, 587 N.Y.S. 21d 601, 80 N.Y.2d 875.

concurrency, one judge stated that there is no reason for women's breasts and men's breasts to be treated differently as they are no more or less a sex organ. The prurient interest in the female breast is based on "suspect cultural artifact rooted in centuries of prejudice and bias toward women." (p. 237).

In February 2000, TV Channel Three in Russia said too much attention was being paid to how the newscaster looked rather than the content of the news. So henceforth, all newscasters (all women) were in the nude. Ratings skyrocketed.

Three women activists in Tunisia were arrested and sentenced to four months imprisonment on June 12, 2013 for "public indecency, offending public morality and disrupting the peace" after a topless protest on 29 May demanding the release of Amina Tyler who had been arrested earlier for posting a naked photo of herself on Facebook stating, "my body belongs to me, and is not the source of the honour of anyone." Many men have posted photos of their bodies on the internet, including some well known ones such as Anthony Weiner, a New York Congressman at the time, and Sheriff Babeau of Pinal County, Arizona. Nude photos of women are widely available on the internet at millions of pornography sites. Yet, when a woman makes her own statement about her body, she is arrested.

WLUML reminds us that the use of naked bodies as political protest is not new. "For instance, in 1840, a woman in the Indian state of Kerala cut off her breasts and presented them to district tax collectors in protest against a local tariff on women who wished to cover their chests. The 'Sassale' of the Songhai community in Niger can also be called upon, or will themselves to emerge, to perform collective public nakedness rituals to spill bad luck and evil on the persons they target. Frequently, their targets are men in positions of power." Nakedness can be used against us or for us but the state intervenes and arrests us only when we choose to exercise our own agency. ²⁵

The European Court of Human Rights

The European Court of Human Rights (ECtHR) has frequently been asked to mediate issues regarding women's clothes. In 1993, in the case of *Senay Karaduman v. Turkey*, the European Commission on Human Rights upheld the decision of the Turkish courts regarding the prohibition of the wearing of Muslim head scarves on university campuses: "The Commission takes the view that by choosing to pursue higher education in a secular university a student submits to those university rules, which may make the freedom of students to manifest religion subject to restrictions as to place and manner intended to ensure harmonious coexistence between

²⁵ Politics Of Nakedness And Freedom Of Expression: The Case Of FEMEN **Source:** WLUML 25/06/2013.

students of different beliefs. Especially in countries where the great majority of the population owe allegiance to one particular religion, manifestations of observance and symbols of that religion without restriction as to place and manner may constitute pressure on students who do not practice that religion or those who adhere to another religion.”²⁶

In 2004 in the *Leyla Sahin v. Turkey* case²⁷ the issue of women’s rights to equality was material to the decision. The ECtHR upheld the Turkish ban on Muslim headscarves on university campuses. The Court held unanimously that there was interference in the right of Muslims to manifest their religion, but the interference was prescribed by law and, being based on the principle of secularism and equality of women and men, was legitimate. In the *Leyla Sahin* case, the Court for the first time held that the principle of gender equality was “one of the key principles underlying [the] Convention”²⁸ The Court did not explicitly discuss the meaning of gender equality and how the applicant’s actions threatened women’s rights, or how the principle could justify prohibiting an adult woman from following what seemed to be a freely adopted and personally important practice.²⁹ It also failed to explore the consequences that the prohibition would have for the applicant³⁰ and thousands of other women in Turkey, who would not be able to access education.³¹ It thus seemed that the Court excluded Leyla and other women who wore the “Islamic headscarf” from the category of women whose rights and equality needed to be protected.

²⁶ *Senay Karaduman v. Turkey*, Decision, No 16278/90, 3 May 1993.

²⁷ *Leyla Sahin v. Turkey*, application no. 44774/98, Decision from 29 June 2004.

²⁸ At para 107 of the judgement.

²⁹ The applicant claimed that she was not pressured into wearing the headscarf, but she considered it her religious duty. She felt strongly enough about veiling to take the case to the ECtHR and to move to Vienna to study. Moreover, she explicitly stated that she did not aim to influence other women to wear it.

³⁰ Not only did the ban prevent her from studying in Turkey, but it may have prevented her from living in Turkey, as she would not be able to practice medicine there. This had a negative impact not only on her life but also on Turkish society.

³¹ As noted by Human Rights Watch, the judgment denies education and career opportunities to a significant number of Turkish women who wear the headscarf: see Human Rights Watch, Memorandum to the Turkish Government on Human Rights Watch’s Concerns with Regard to Academic Freedom in Higher Education, and Access to Higher Education for Women Who Wear the Headscarf, 29 June 2004, available at: http://hrw.org/backgrounder/eca/turkey/2004/headscarf_memo.pdf; Human Rights Watch, Turkey: Headscarf Ruling Denies Women Education and Career, 16 Nov. 2005, available at: <http://hrw.org/english/docs/2005/11/16/turkey12038.htm>. This judgment may also alienate Muslims, which might result in an increase in fundamentalism, with negative consequences for Muslim women.

In the *Dahlab v. Switzerland* case³² the Court found wearing a headscarf to be contrary to the principle of equality, even though the applicant primary school teacher, who was prohibited from wearing the headscarf while teaching, argued that a prohibition on wearing the headscarf and other “visible religious symbols” constituted discrimination on the basis of sex. She claimed that a man belonging to the Muslim faith could teach at a state school without being subject to any form of prohibition, whereas a woman holding similar beliefs had to refrain from practising her religion in order to be able to teach.

The Court held that the measure was not directed at her as a member of the female sex but that it pursued the legitimate aim of ensuring neutrality, and that it could easily be applied to “a man who ... wore clothing that clearly identified him as a member of a different faith”, and hence found no violation.

The ECtHR had decided several additional cases prior to the burqa ban in France. In *El Morsli v. France* (no. 15585/06) 04.03.2008, the case was declared inadmissible when Mrs. El Morsli refused to remove her headscarf for an identity check by male personnel at the French consulate. The court ruled it was a valid security rule for public safety and the removal was only for a very short time. In *Dogru v. France* (no. 27058/05) and *Kervanci v. France* (no. 31645/04) 04. 12. 2008, two girls were expelled from secondary school for refusing to remove their headscarves during class. The court held that the veil or headscarf was incompatible with sports classes for reasons of health and safety and the penalty was a result of violation of rules not religion. In *Aktas v. France* (no. 43563/08), *Bayrak v. France* (no. 14308/08), *Gamaleddyn v. France* (no. 18527/08), *Ghazal v. France* (no. 29134/08), *J. Singh v. France* (no. 25463/08) and *R. Singh v. France* (no. 27561/08) 30.06.2009, the cases were deemed inadmissible when the girls wore a headscarf and the boys a turban, and they were denied access to the school and then expelled. The court held the rule did not violate the Convention because it pursued the legitimate aim of protecting rights and freedoms of others and of public order, and the State must be a neutral organizer of the exercise of religion.

The ECtHR has had cases on burqa bans from other countries as well. In *Ahmet Arslan and Others v. Turkey* (no. 41135/98) 23.02.2010 the applicants specifically challenged the ban on wearing religious garments in public. The court found a violation because the clothing worn was the type of clothing anyone might wear and not restricted to religious symbols.

Not all the complaints were regarding the Muslim religion. In *Eweida and Others v. the United Kingdom* (nos. 48420/10 59842/10, 51671/10 and 36516/10) 15.01.2013 the applicants were Christians who complained about restrictions on wearing the crucifix at work, and two applicants had been dismissed for refusing to serve homosexuals because they felt it violated their religion. Most claims lost but

³² *Dahlab v. Switzerland*, Application No. 42393/98, Decision from 15 February 2001.

one was sustained when the only objection to the wearing of a cross was corporate image versus health or safety.

As expected, it didn't take long for the new French law to get to the European Court of Human Rights where it will be argued in November 2013. In *S.A.S. v. France* (no. 43835/11), the applicant, a practicing Muslim woman, argued that she wears the niqab because of her faith, culture and personal convictions and that neither her family nor her husband has put pressure on her. She argues freedom of religion and discrimination based on sex, religion and ethnic origin against women who want to wear the full veil. Of course the court might decide in any number of ways, but from previous decisions, the tendency is leaning toward allowing the bans.

What's happening in the Muslim World?

According to Dr. Valentina Colombo, a researcher on Arab women, if those opposed to the burqa would look at the Muslim world, they would find some interesting actions.³³ In Egypt, nurses have not been allowed to wear the full veil since 2009 because it interferes with job requirements such as washing hands.

In Kuwait, the niqab has been banned while driving for security purposes because the driver cannot see properly nor be seen in case of a driving infraction. After two women politicians did not wear hijabs, Islamists sued demanding that they follow sharia law. The court ruled for the women. In Saudi Arabia, public security officials are opposing the niqab because Islamic terrorists have used it to hide behind. In Abu Dhabi, the niqab was banned to fight unrestricted absenteeism. In Tunisia in 2008, two girls wearing hijabs in public were obligated to take them off while a relative trying to prevent it was arrested.

On International Women's Day in 2008, an international campaign was launched to "Take off the veil" because it is not required by religion but rather is a political issue. Islamists argue that women must protect men from sinning, that it is necessary for a righteous society and that it is a religious obligation. One of the campaign's leaders, Elham Manea, a professor at the University of Zurich, reminded Muslim women that nobody should oblige them to wear the hijab, and they are totally free to choose whether to put it or not. Men should be responsible for their own sinning.

In 1899 the Egyptian intellectual Qasim Amin published his landmark *Tahrir al-mar'a* (The Liberation of Woman), in which he called for the removal of the face cover. He argued that it was not in keeping with the tenets of the faith. Hoda Shaarawi, the first Egyptian woman to remove her veil in the wake of the 1919

³³ WUNRN, <http://www.wunrn.com>; <http://www.hudsonny.org/2010/03/behind-the-burqa-debate-in-europe.php>, March 12, 2010, Dr. Prof. Valentina Colombo, Academic Researcher on Arab Women's Role in Democratization Processes in the Middle East - European University of Rome, Europe: Behind the Burqa Debate.

Revolution, followed by Siza El-Nabarawi established the first feminist association that called for uncovering the face, and eventually the hair, in 1924.

The battle over the hijab is as old as women's rights. At the beginning of the 20th Century, the veil was a traditional symbol and no one was attacked for wearing or not wearing it. Today women are attacked for doing either. Colombo argues that the veil is not discrimination against Islam but an attack on the fear, violence and destruction that the mandatory hijab has brought with it.

In India, a professor at the first Muslim university was ordered to wear the burqa, though there was no dress code, but she refused. ³⁴ After being forced to go to another university, she returned to her job without a burqa only after public outcry supported her.

The high court of Dhaka, Bangladesh ruled that no woman could be forced to wear a burqa at work or educational institutions nor could their cultural activities and sports in educational institutions be restricted. ³⁵

While more and more women in Egypt wear headscarves or hijab, it is out of coercion and family pressure. Women without a hijab are accused of being prostitutes and subject to verbal and physical harassment on the streets.³⁶ Though I clearly looked like a foreigner when I was there in 2005, I experienced a steady barrage of catcalls whenever I walked down the street uncovered.

After the ECtHR rulings regarding Turkey, the women's groups called a spade a spade – we don't trust this patriarchal government - they said and laid the problem on women's inability to participate in society and decision making. Their position called for a total package of constitutional reforms, not just the headscarf. As usual, the struggle while played out over women's bodies is really between two groups of men – the old secular elite and a new Islamic elite – over who gets to define Turkey. Women are pawns not players in the game.

Women's Rights as the Touchstone

The Council of Europe takes much the same position as Dr. Colombo. In their Resolution on Islam, Islamism and Islamophobia in Europe ³⁷ they call on Muslim communities to abandon interpretations of Islam that deny gender equality or limit

³⁴ India: Teacher wins burqa battle at university, Source: [Indian Express](#), 11/08/2010 9:52 am.

³⁵ Monday August 23 2010 02:26:21 AM BDT, Dhaka, Aug 22 (bdnews24.com).

³⁶ Egypt: Newspaper Criticizes Phenomenon of Compelling Women to Wear a Hijab, Source: [WLUML](#), 24/12/2010 2:38 pm, *Roz Al-Yousef* (Egypt), July 17, 2010.

³⁷ Provisional edition, Islam, Islamism and Islamophobia in Europe, Resolution 1743 (2010)[1 Council of Europe](#).

women's rights as not compatible with human dignity and democratic standards. They point out that women are the prime victims of Islamism and Islamophobia. The veiling, even a headscarf, is perceived as a symbol of women's subjugation to men and is not recognized by all Muslims as a religious obligation. Rather it is a tradition that is harmful to women and cannot be justified under international treaties.

However, they admit that while legal restrictions may be necessary for security purposes or where religious neutrality is necessary, a blanket prohibition of the burqa and the niqab would deny women their rights to choose freely to wear or not to wear religious clothing in public. What about banning nuns from wearing their religious clothing? Would Italy support a ban on all religious habits? Some of them cover everything but the face. Such a ban might further force women to be confined in the home. The Council urges countries to develop policies to raise the awareness of the rights of Muslim women and move them toward equal opportunity and away from discrimination.

A further recommendation ³⁸ asks states not to establish a general ban on the veil but to focus on equal opportunities for Muslim women, ending violence against them and ensuring choice.

Manipulating our Bodies

In China, they used to bind the feet of girls to make them tiny and therefore more sexually appealing to men. It also destroyed the foot, turning it into smelly decaying flesh and made it difficult for women to walk let alone run. My mother wore three-inch spike high heels that also destroy the feet and legs and make it difficult to walk or run. Today, women are having their toes surgically shortened to fit into the newest fashionable narrow shoes. Have we come full circle to Chinese foot binding?

We have all seen pictures of African tribes where long earlobes are considered beautiful so women wear heavy rings to stretch the lobes down to their shoulders. Or perhaps we've seen pictures of tribes where a long neck is beautiful so women put heavy rings on their neck from childhood to elongate it to the point where they cannot hold up their head if the rings were removed. Or we've seen photos where a plate is inserted into the bottom lip of a woman to stretch it out. We think these strange customs.

In the U.S., however, women inject the flesh of dead people into their lips for "lip augmentation" to look more like Africans. Or they submit their bodies to be cut into for breast "augmentation" to look more like porn stars. Or they inject poisons into their foreheads such as Botox to look forever young – or puzzled. Are these customs any stranger?

³⁸ Provisional edition, Islam, Islamism and Islamophobia in Europe, Recommendation 1927 (2010).

A real hazard to women in Africa is female genital mutilation (FGM). The clitoris is removed so women will not be attracted to sexual pleasure and therefore chase after men. It is also stated by some that the clitoris is an extra burden carried by women that must be removed so they can do the farm work more easily. In some places women are not marriageable unless the cutting is done. Old women, birth attendants or local barbers or healers carry on the practice. They make no use of anesthesia so it is necessary to have helpers to hold the girl steady and her legs apart. Knives, razor blades and shards of glass are often used. The spread of HIV is tied to the unsterile techniques. Other adverse effects include recurrent urinary tract infections, infertility, pelvic inflammatory disease, difficulty in menstrual flow, problems in childbirth, painful sexual intercourse, lack of sexual pleasure and death. In June 2013, a thirteen-year-old girl died in Egypt during the outlawed procedure when her blood pressure dropped.³⁹ In spite of her death, Sheikh Badri claimed FGM is necessary because, "This makes the girl control her common sense about sex because women quickly feel sex, before men." I wonder what the elderly sheikh knows about that?

Many American girls and women, up to 200,000, are sent abroad to undergo the procedure. Sometimes the girls knew the reason for the trip, sometimes they didn't. However, women in the U.K. and U.S. are also undergoing another form of FGM allegedly to boost their sex life and their self-esteem.⁴⁰ Two forms of surgery involve cutting out a piece of the vagina to make it smaller or labial reduction cutting away the fatty tissue, both done under general anesthetic. There is a small risk of death but a high risk of infection. Some women report less sexual sensation after the operation.

A study published in the British Journal of Obstetrics and Gynaecology in 2009 revealed that there had been an almost 70% increase in the number of women having labiaplasty on the NHS on the previous year. There were 1,118 operations in 2008, compared with 669 in 2007 and 404 in 2006.

Experts say the risks of labiaplasty include permanent scarring, infections, bleeding and irritation, as well as increased or decreased sensitivity if nerves get caught in the operation. A partner in the King's University research, Dr David Veale, a consultant psychiatrist in cognitive behaviour therapy, said he believed the surge in demand could be linked to easier access to explicit sexual imagery. "We haven't completed the research, but there is suspicion that this is related to much greater access to porn, so it is easier for women to compare themselves to actresses who

³⁹ 19 June 2013 Last updated at 12:49 ET, BBC News Middle East, [Egypt girl's death puts spotlight on genital mutilation](#).

⁴⁰ AlterNet / *By Jodie Gummow*, Evidence Shows That Illegal Female Genital Cutting Is a Growing Phenomenon in US, June 21, 2013.

may have had it done. This is to do with the increasing sexualisation of society – it's the last part of the body to be changed."⁴¹

These designer vaginas are created to simulate the airbrushed crotch shots of women in porn magazines. It is allegedly done for older women or women with several children to have “young looking” vaginas attractive to their husbands. Is this FGM more palatable because it is done with anesthetic and in more sterile conditions? Is it acceptable because the women are older and not held down by force but rather feel obligated to live up to some impossible stereotype found in pornography? I remember the days when we had speculum parties and women looked at their own and each other's cervix. Do women today have vagina parties? Oh, come over and see my new vagina.

Genital mutilation and vaginal surgery are both performed based on cultural norms and expectations. The primary difference between the procedures is allegedly consent. However, when women are not in a position of power or even liberty, what can consent possibly mean? Further, what is “informed” consent? Are women who opt for vaginal surgery educated that human vulvas come in a variety of forms and there is no ideal look? The bottom line for both actions is social control of women's bodies. ⁴²

Conclusion

Whether women wear a burka or a thong, whether their feet are bound or their toes cut off, whether they insert a plate into their lip or poison into their forehead, whether they cut up the vagina before marriage or after, is it really any different? Do we call one barbaric and the other culture just because we are familiar with one and not the other? The manipulation and control of women's bodies is the underlying theme. Until that is recognized and addressed, the forms of oppression may change but the oppression remains.

⁴¹ Rowenna Davis, The Observer, Sunday 27 February 2011
<http://www.guardian.co.uk/lifeandstyle/2011/feb/27/labiaplasty-surgery-labia-vagina-pornography>.

⁴² Female genital mutilation and cosmetic genital surgery: Do they have anything in common?, Source: [AWID](#), 11/02/2011 2:17 am By Kathambi Kinoti.