

Swimsuits on Trial in France

by Michael Curtis

In 1871 Karl Marx published a pamphlet, *The Civil War in France*, discussing the fight between the radical Commune radical group that had ruled Paris for a few months and the national government that resulted in more than 20,000 casualties. The Commune attempted to institute political and social reforms, particularly the separation of church and state, and better social conditions.

In summer 2016, a political and legal civil war has erupted in France on what is not simply a trivial issue of women's swimsuits, but also raises important and controversial issues of Islamic identity within a secular society, adherence to French law and custom, and freedom of expression.

French society has been concerned for nearly 30 years with the problem of the clothes of Muslim women. Now it is divided over the wearing by them of burkinis, the swimsuits that cover the full body except the face, hands, and feet, on the beaches of France. So far, we have not heard from Brigitte Bardot, the scantily clad movie goddess who popularized the bikini in the 1956 film *And God created Woman*. Her voice might be helpful in resolving the question of whether French administrators of beaches today should allow only the bikini clad equivalents of Bardot in her glory days, or should they permit Muslim women wearing the more substantial and controversial costume?

At this point, the burkini, or more precisely what French officials term "beachwear which ostentatiously displays religious affiliation," had been banned by mayors in 30 towns on the basis of a threat to law and order. Some small fines had been imposed, particularly in Nice, where the city government fined 24 women for wearing the garment.

The highest administrative court in France, the Conseil

d'Etat, has now entered the battle. The French Human Rights League and the Collective against Islamophobia in France had challenged the ban on the wearing of burkinis imposed by the mayor of Villeneuve-sur-Loubet, one of the 30 towns that had issued them. A local court in that town upheld the regulation.

On August 26, 2016 the three senior judges of the Conseil d'Etat held that the ban was "a serious and manifestly illegal infringement of fundamental liberties such as freedom of movement, freedom of conscience and personal liberty." For the Court the burkini did not constitute a risk to public order.

The non-military civil war on the question involves political figures within the French political class as well as outside the government, and some dignitaries from other countries. According to one survey, 64 per cent of French people favor a ban, while only 6 per cent were opposed, and 30 per cent were indifferent.

Not surprisingly, Nicolas Sarkozy, former president and again a presidential candidate, a law and order candidate, demanded a nation wide ban of burkinis. The mayor of Nice, David Lisnard, referred to the burkini as like a uniform, a symbol of Islamist extremism, not simply an innocent religious symbol but also a militant emblem of radical Islam, consciously marking a separation of a group from the mainstream.

The Muslim mayor of London, Sadiq Khan, in a visit to Paris, condemned the ban as impractical and illiberal. The mayor of Paris, Anne Hidalgo, confined herself to condemning "hysteria" on the Issue. Not unexpectedly, the responsible official of Amnesty International remarked that the bans did nothing to increase public safety but did a lot to promote public humiliation.

Within the socialist government there was a clash between Prime Minister Manuel Valls and the Minister of Education Najat Vallaud-Belkacem. Valls defended the existing short-term

local regulations, though not any nation wide legislation. Valls argued on two grounds. One is on the fact that the bans were imposed in the name of public order, because only a few days earlier the massacre had occurred on July 14, 2016 of 86 civilians in Nice. As a result there was understandably considerable tension in the south of France as well as in the country as a whole. The other, more controversial, reason was his argument that the burkini was a symbol of the enslavement of women. President Francois Hollande entered the discussion by declaring that wearing a burkini was a political act, a militant provocation.

In contrast, Vallaud-Belkacem, Moroccan born who describes herself as a non-practicing Muslim, said the ban "had let loose" verbal racism, was dangerous for national cohesion, and raised the issue of individual freedom. She wondered to what extent France should go to ensure an attire that is respectful of good morals? In what seems a curious statement when defending women who want to hide their bodies, she asserted that permitting women to wear the burkini would promote a society where women could be free and proud of their bodies. The government minister for women, Laurence Rossignol, more appropriately said that burkinis were designed to hide women's bodies.

There are several questions to be considered. Is the "law and order" approach valid? It is true that a burkini cannot conceal a weapon. Though it is not an exact equivalent, an interesting precedent bolstering the argument of those advocating law and order was the event in London in July 2015 when a nine member gang wearing burkas who had engaged in ten robberies were arrested. Among the places robbed were Selfridges, Prada, and Jimmy Choo. The haul included Rolex watches worth half a million dollars.

More relevant is the issue of the nature of France, the place of Islam within French culture, and adherence to French behavior and custom. France is symbolized in different ways,

but a starting point might be the allegorical image of the nation in the Delacroix painting *Liberty leading the People*, one of the prize works of art in the Louvre. The image, widely identified as a representation of France, is of a rather sensual Marianne, topless and holding the tricolor flag in one hand and a musket in the other.

Everyone recognizes that the image signifies France as a country of liberty and equality, but it also symbolizes three specific aspects of France, as a country that is secular, hedonistic, and a supporter of women's liberation, to all of which the burkini poses a challenge.

A compromise solution might be to distinguish between the various form of Muslim women attire, from the mildest to the most extreme, the hijab, the chador, the niqab, and the burqa, but this would be avoiding the main issue. The issue of public order in France is ever present because of Islamist activity. Yet, the burkini is not a major factor on this issue, though it is unclear whether the decision of the Conseil d'Etat, removing the ban, will calm or heighten tensions and passions.

The real question is whether all Muslims living in France as in western democratic societies will accept western values. To what extent will they obey the national law instead of Sharia law, respect French accepted customs of behavior and dress, as well as adhere to rules of hygiene and safety in public, including bathing, areas?

The overriding issue is adherence of all people in the country to the principle of laicite, the secularist principle, on which French society rests. The issue goes back to the 1905 constitution in the attempt to separate church and state, with freedom of conscience, the principle of no official recognition of a religion and neutrality in religious affairs,. Secularism in education is ordained, while freedom of religion and freedom to exercise it is guaranteed. In 2016 president Hollande proposed a temporary ban on foreign funding

for mosques, and closed 20 mosques preaching radical Islamist ideology.

With the entrance into France of large numbers of Muslims, mostly from North Africa, various additions to the law were made relevant to that immigration. In 2004 a law forbade "dissimulation of the face," the wearing of conspicuous religious signs, religious emblems, Christian crosses and Jewish kippas as well as the Islamic hijab in public school and colleges. The question now is whether that law should be extended to all public spaces, and this would include beaches.

In 2010, France banned, the first European country to do so, full faced Islamic veils from public places. The government Minister for Women's Rights at the time, Pascale Boistard, supported banning students from wearing veils at French universities. The ban was upheld in July 2014 by the European Court of Human Rights which held that the preservation of a certain idea of living together was a legitimate aim of French authorities.

There are two overriding issues. One is whether Muslim women attire signifies oppression rather than liberation of women. The other is whether the wearing of the burkini is a deliberate way of indicating religious identity in public places and therefore explicitly constitutes Islamic propaganda. For the sake of peace and stability and "living together" in France the better part of wisdom is to allow the ban on burkinis to continue.