The Effect of increased European Secularism on Religious Minorities

Overview

The photo above depicts three young Muslim women wearing hijabs while marching in Paris. The photo was taken after the releasing of the Secular Charter for all schools. The charter is just one of many attempts by European states to suppress religion in their states and emphasizing secularism as the reasoning. Despite this, many European countries find themselves currently having to address the influx of Muslim residents residing in their states. The religious values of Muslims and many other religious minority groups calls for behaviors that are not reflected in traditional European society. These behaviors may include wearing more modest clothing or limiting the physical contact between men and women. These values held by religious minorities are under scrutiny as European states such as France argue that suppression of public displays of religious apparel or figures disrupt the homogeneity of the state.
Historical Context

European Secularism has been a defining aspect of European history since the Renaissance and Reformation. With their emergence in the sixteenth and seventeenth centuries, societal norms and customs began to change. Up to this point, the Catholic Church dominated European states and was the prominent influence throughout the continent, with the Pope as its leading figure. This is evident as seen in the high involvement of the Pope on matters such as marriage, war and even divorces in European history. The ideas that the Renaissance introduced initiated this separation of the church and state with society refocusing itself on material wealth and the luxuries of life. Delicious foods, pleasant music, and expensive art began to be considered to be of higher value than spiritual salvation or the delights which are promised by the Christian Bible. The crisis and religious reform brought about by the Reformation further increased this divide and continued to uphold secularism. Despite the emergence of the separation of the Church from the State, religion remained a prominent influence over the people of the continent.

Since the societal changes caused by the Renaissance and the Reformation, European states have adopted secularism in varying ways. France, a state that is known for its secular rule formally introduced secularism to its state as a result of the Revolution of 1798. This revolution observed the clashing of members of the church and those of the state and even resulted in church assists being confiscated and priests swearing allegiance to the French Republic. At the time this took place, it is estimated that almost all of the 28 million persons making up France's population was Catholic. Following the revolution, members of the French population who were Catholic were able to continue to openly practice and act with full membership to the French state. The rights that were given to the French Catholics were not extended to members of the state who were also Protestants, Jews or Muslims.

For more on the French Revolution, please see;
https://www.historytoday.com/gemma-betros/french-revolution-and-catholic-church
http://news.bbc.co.uk/2/hi/europe/3325285.stm

On December 9th, 1905 the Separation of Church and State was finalized and accepted into French Law. From this time on laïcité, French secularism, remained in full effect. The first instance where lives were threatened by laïcité in France was during WWII when France was occupied by Nazi controlled Germany and actively participated in the deportation of approximately 75,000 of the 300,000 Jews who lived in France to Nazi Concentration Camps.
Following the war, diversity in France continued during “The Glorious Thirty Years” when thousands of North African Laborers of predominant Islamic faith from 1945 to 1975. These laborers originated from African States such as Algeria, Morocco and Tunisia. Even during this time there was heavy emphasis on keeping religion private and not open in the public sector.

For more on “The Glorious Thirty Years” See: https://eserve.org.uk/tmc/contem/trente1.htm

As with the increased levels of immigration and migration of workers into France, the Country has become a true melting pot of cultures and ethnicities. As a result of laïcité, the cultural differences were not celebrated and integrated into French society but rather shunned and have aggressively encouraged the adoption of French society and their values. Values including keeping religion a private matter.

Another European country affected by secularism is Denmark. Traditionally, Denmark has been a fairly liberal and progressive country. It has followed the trend of many Nordic/Scandinavian countries as it is heavily developed technologically and socially. Despite citizens having extensive social rights and a well functioning and comprehensive welfare state, there is a long standing history of homogeneity. With Denmark, almost all citizens
  ○ Belong to the same state run Lutheran church
  ○ spoke Danish and Swedish, respectively—a language spoken by all inside the country but nowhere outside the country;
  ○ shared the experience and consciousness of a long unified national history.

Unlike France where religion remained an influencing factor on the society, with modernization its relevance diminished but has remained a Christian country. The Countries Constitution states the following;
  ● According to the constitution (§ 54), the Lutheran-evangelic Church is the Danish People’s Church (“Folkekirke”), and is, as such, supported by the State, which means that the Lutheran-evangelic religion and its institutions and churches are given a favored place among religions in Danish society. All tax-paying citizens, regardless of their personal religious beliefs, thus contribute to the priests and bishops of the “Folkekirke.”
    ○ Practically all citizens are automatically born as members of the “Folkekirke.” Not to be so demands that the citizens take the initiative to leave the church. At present 83 percent of the Danish population belong to the “Folkekirke.”

To read more of Denmark’s Constitution see: https://www.constituteproject.org/constitution/Denmark_1953.pdf?lang=en

With increased globalization and migration, the definition of that it means to traditionally be “Danish” to Danes has been challenged. Presently, Muslims immigrants account for 6 percent of the total Danish population in the Danish Welfare States. These immigrants are mostly
refugees from the Middle East, while others are working immigrants from Pakistan. The presence of the Muslims and other religious minorities who are regarded as “culturally deviant” has only enhanced for Danes. The secular values in Denmark have only made expressing religion a more pertinent issue. These secular values include political freedom, freedom of expression, individualism, individuals right to live according to one's own individual preferences, women’s rights and gender equality. These rights have become more clearly expressed and are often aggressively pushed. Specifically, the freedom of expression is more commonly aggressively expressed. This freedom includes the right for one to criticize and even ridicule religious and other “holy” texts and symbols.

For more on Denmark and Secularism please see:  
http://www.trincoll.edu/depts/csrpl/rinvol9no2/insert/Denmark.htm  

**Current Situation**

Currently, many religious minorities are facing discrimination and criticism regarding their practices, values and beliefs. This is seen in many European Courts who are ruling in favor of the state in regards to religious questions. Also, the rights and integrity of the state ensure that the local culture and status quo is maintained. These rulings allow no room for change in society, nor discussion among old and new members of European society. Religious minorities are most affected, as they are essentially given no voice, or rights to uphold their culture and religious morals, as the states they reside in value homogeneity over diversity and inclusion.

Most recently, a case regarding Muslims and swim classes have been examined by numerous courts in Europe. Switzerland, a country known for its neutrality, recently changed a law following a significant spike in its Muslim population. Many Muslims wish to withhold their children from swim sessions as it may go against their modesty beliefs. In 1993, this case was first taken to Federal Courts where it was decided that even if the applicant did not learn to swim, her chances of completing her school career or succeeding in her professional life were not seriously threatened. The Federal Supreme
Court also noted that the curriculum in the Canton of Zurich did not oblige municipalities to offer swimming as a compulsory lesson, but merely recommended it. In 2008 the Federal Supreme Court amended its ruling following a significant increase of Switzerland's Muslim population. It stated that the interest in ensuring integration and compliance with the values of the local culture ought to be given greater weight.

In 2013 the topic was reviewed again but in respect to a young woman fourteen years of age and past puberty. The Federal Supreme Court dismissed the families application. The girl, a Shiite, argued, inter alia, that, firstly, the lessons in question were conducted by a male teacher and, secondly, men could see her through the windows of the swimming pool. The Federal Supreme Court held that the girl’s private interest had to yield to the public interest in an all-round education for all pupils, whatever their religion. Furthermore, the interference with her freedom of religion struck the Federal Supreme Court as less significant in that case, given that girls and boys attended separate swimming lessons and the girl in question was able to change and take a shower separately from other pupils, and was allowed to wear a burkini.

For more on this see: https://hudoc.echr.coe.int/eng#{%22languageisocode%22:[%22ENG%22],%22appno%22:[%222229086/12%22],%22documentcollectionid%22:[%22CHAMBER%22],%22itemid%22:[%222001-170436%22]}

Switzerland Laws and Regulations State the Following:
A. Relevant domestic law
22. The relevant provisions of the Federal Constitution read as follows:

**Article 15 – Freedom of conscience and belief**
“1. Freedom of conscience and belief is guaranteed.
2. Every person has the right to choose freely their religion or their philosophical convictions, and to profess them alone or in community with others.
3. Every person has the right to join or to belong to a religious community, and to follow religious teachings.
4. No one may be forced to join or belong to a religious community, to participate in a religious act, or to follow religious teachings.”

**Article 36 – Restriction of fundamental rights**
“1. Restrictions on fundamental rights must have a legal basis. Significant restrictions must have their basis in a federal act. The foregoing does not apply in cases of serious and immediate danger where no other course of action is possible.
2. Restrictions on fundamental rights must be justified in the public interest or for the protection of the fundamental rights of others.”
3. Any restrictions on fundamental rights must be proportionate.
4. The essence of fundamental rights is sacrosanct.”

Article 62 – State education
“The Cantons are responsible for the system of State education.

The Cantons shall ensure the provision of an adequate basic education that is available to all children. Basic education is compulsory and is managed or supervised by the State. In State schools it is free of charge.

…”

Article 303 – Religious education
“The father and mother shall decide on the child’s religious education. Any agreement which would restrict their freedom in this respect shall be invalid. On reaching the age of 16, the child shall have the right to choose his or her own faith.”

Section 17
“Primary school shall last for four academic years. As a general rule, boys and girls shall be educated together.”

Section 22
“The compulsory lessons in primary school shall be: languages, reading, mathematics, history of cultural heritage, writing, drawing, gymnastics (Turnen) …”

Section 66
“1. All pupils shall attend the compulsory lessons.
2. An exemption from lessons or from certain subjects may only be granted subject to compliance with certain conditions for which specific regulations have been issued.[1]”

Section 91
“...
8. The obligations of persons responsible for children are defined as follows:
(a) [Persons responsible for children] are obliged to ensure that their children attend compulsory and optional lessons on a regular basis and that they receive sufficient rest;
(b) they must not deliberately keep their children away from school;
(c) they shall take part in information meetings for parents and in meetings with teachers, organised by a member of the teaching staff or by the school authorities;
(d) they shall instruct their children to comply with all of the school rules and instructions.
9. Persons who repeatedly fail to comply with the obligations listed in sub-section 8 are liable, at the request of the school authorities, to a fine of up to 1,000 [Swiss] francs. …”

Section 139[2]
“At least three hours per week shall be devoted to exercise and physical education as part of the curriculum.”

Regulation 34
“The school authorities shall decide whether or not to grant an exemption from certain lessons. With a view to duly informing themselves, they shall be entitled to request supporting documents.”

Regulation 35
“Exemptions shall be granted for a specific period, which shall not exceed the duration of the semester already started. A new request shall be required for each application for an extension.”

Switzerland is not the only country that has imposed laws whose nature has opposed or restricted religious minorities residing in the state. France and Denmark have also made passed laws that have specifically targeted religious minorities with a focus on their increased Muslim population. Most notable is the ban on the Hijab and Burqa.

In France, the ban was put in place in 2004 by President Jacques Chirac who banned Muslim headscarves and veils in schools exclusively. To reinforce this is the secularism charter which was released in 2013 by French Education Minister Vincent Peillon who promoted the charter as providing “absolute respect for freedom of conscience”. The Charter of School Secularization makes that claim that laicité’ is a fundamental value and principle of the public. To make matters worse, the primary goal of this was to stopping parents from pressuring schools into having sex segregated schools, Halal food and from rejecting secular teaching methods

For more on this please see:
https://www.thelocal.fr/20130909/france-to-unveil-seculariam-charter-in-schools

French law has also prohibited the use of religion by female students as a reason to not participate in sports, unless upheld by a doctor and in such case the student will be examined again by a school doctor. It is prohibited to use religion to justify breaking rules of equality between men and women. Sanctions will be given to those who refuse to shake hands with a woman for religious reasons. The state has made sexual education a requirement and restricts Muslims mothers who wear a hijab from accompanying their children on school trips.

For more on this please see:

In Denmark, a law passed this year which made it illegal to cover faces in public places, claiming that hidden faces were a security threat to the public. To make matters worse, Muslim women who are caught wearing either a burqa or niqab will be fined 1,000 Danish drones (approximately 150 USD) for the first offense and up to 10,000 Danish drones (approximately 1,570 USD) going forth. In addition to this, it is illegal to wear fake beards. The law which established this allows for Muslim and Sikh men to be stopped and searched for having facial hair.

The Prime Minister of Denmark wants residents of “ghettos”, places where religious minorities and immigrants reside, to face double the punishment for crimes committed elsewhere in the country. This allows the police to define special punishment zones where they have the power to issue increased punishment. In addition to this, the State has now proposed that parents
who take their children back to their native lands to learn their native tongue or be acquainted with the religion face prison time.

For more on this please see:
https://www.alaramby.co.uk/english/comment/2018/6/6/denmarks-burqa-ban-a-lurch-towards-secular-extremism

Important Actors:
French Enlightenment Philosophers:
Enlightenment Philosophes introduced many ideas and among them are the following:

- Voltaire; praised young nuns who devoted their lives to bring for the sick and poor but saw the clergy as less useful
- Louis Sebastien; Made the claim that “Pais was full of Priests and tonsured clerics who serve neither the church nor the state’ and who were occupied with nothing but ‘useless and trifling’ matters.
- Denis Diderot; Rallied against the lifelong nature of solemn vows taken by monks and nuns. These vows bind them to the religious state for life. The French seen this to lead to concerns about individual liberty. His novel, La Religieuse (The Nun), examines the life of a young woman who was forced to be a nun against her will.

The United Nations

In 1948 the United Nations passed the Universal Declaration of Human Rights which details a number of things one is entitled to as a living human being. Article 18 states the following:
Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

In 1966 The International Covenant on Civil and Political Rights passed, extending what the Universal Declaration of Human Rights has passed, and Article 18 states the following:
1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

To further this, the United Nations created the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief in 1981. This Document makes the claim that

No one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief. (Article 2.1)
All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life. (Article 4.1)

The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up. (Article 5.1)

The United Nations has played an active role in ensuring the personal liberties of all members of state community and continued its overview of this in 1986 with the passage of the Special Rapporteur. The Special Rapporteur is an independent expert appointed by the UN Human Rights Council and the mandate holder serves to identify existing and emerging obstacles to the enjoyment of the right to freedom of religion or belief and present recommendations on ways and means to overcome such obstacles. The current mandate holder, Ahmed Shaheed, was appointed in November 2016 and he also serves as Deputy Director of the Essex Human Rights Centre.

The last measure taken by the United Nations recently was the passage of the Human Rights Committee’s General Comment Number 22 on Article 18 of the Civil and political Covenant and tries to narrow the scope of what belief and religion are. The Comment serves to attempt to narrow the scope of narrow the scope of belief and religion and also tries to explicitly explain what the freedom to religion or belief means to hopefully remove any uncertainty that may come about.
Questions to Consider:

1. Is there a better way that secular countries can allow for religious expression and remain secular?
2. Are there any constitutionally secular countries that are not having issue with religious expression of religious minorities?
3. Do you foresee this issue become better or worse with the way the international community is handling this issue?
4. Is there more the United Nations can be doing to assist religious minorities in countries what are using homogeneity to suppress their right to freedom of religion.
5. How does your country stand when it comes to religious freedom/expression and religious minorities? Do you have an established state religion? How has your country adjusted to change amongst population culturally? Religiously? Ethnically?

Further Reading:

For more on Denmark:

For more on France:

For more on other European Countries: