

## BRIEFING PAPER NO.3 – APRIL 2010

### The background to the French parliamentary commission on the burqa and niqab

**On 21 April 2010, President Sarkozy ordered his government to present a draft law in May that would make the wearing of the burqa or niqab illegal in France. This was the culmination of a year-long debate which also saw the formation of a parliamentary commission on the *voile intégral*.**

From 8 July 2009 to 26 January 2010, a parliamentary commission of thirty-two deputies, under the chairmanship of André Gerin, the Communist Party mayor of Vénissieux, deliberated about banning the wearing of the full veil in France. For supporters of a total prohibition on the wearing of the *voile intégral* in public spaces, an outright ban was necessary to protect French secular values and gender equality from the dangerous spread of radical fundamentalism, as well as anti-French and anti-white attitudes. But for representatives of the Muslim communities and human rights groups, the wearing of the burqa and the niqab is a marginal issue. They described the parliamentary commission as a weapon of mass diversion from France's real economic and social problems, and a tool to further stigmatise the Muslim population in France.

Although the bulk of the controversy around the burqa and niqab in France occurred in 2009, it was in July 2008 that the Union for a Popular Movement (UMP) MP Françoise Hostalier first introduced a bill in parliament calling for their banning. This was greeted with little enthusiasm within the media and amongst other MPs across the political spectrum and soon disappeared from view. Later in September 2008, another UMP MP, Jacques Myard, author of *La Laïcité au cœur de la République*, also attempted to initiate legislation allowing for the possible prosecution of any woman wearing a full veil in public. Once again the bill could not muster the widespread support of the parliamentary deputies.<sup>1</sup>

But in April 2009, André Gerin, the Communist Party mayor of Vénissieux,<sup>2</sup> a town in the South of Lyon, noted particularly for its high proportion of North African migrants, reignited the issue of Muslim women's clothing in a highly-charged open letter to the French Prime Minister, François Fillon. The mayor wanted to tackle the 'hot topic' of the 'burqa' which according to Gerin 'preoccupies thousands of citizens' in France. In a call to defend

French values Gerin asked, 'Should we give allegiance to a doctrine of radical fundamentalism, Salafism which is leading an anti-France and anti-White struggle?'<sup>3</sup>

It is worth noting that according to confidential records of the Ministry of Interior, a total of 2,000 women in France wear the burqa<sup>4</sup> in France, while an earlier intelligence service assessment reported a mere 367 women as wearing the veil in the entire country.<sup>5</sup>

Where the Communist Gerin differed from his right-wing predecessors was not in the rhetoric but in his call for a parliamentary commission to investigate a burqa ban rather than introducing a parliamentary bill – avoiding the time and effort of the latter whilst benefiting from greater potential publicity.

On 9 June, Gerin, along with fifty-seven other legislators, initiated a motion calling for the National Assembly to set up a parliamentary commission of inquiry on the burqa.<sup>6</sup> Whilst a good 70 per cent of the resolution's signatories were UMP MPs a significant proportion belonged to leftwing parties.

The resolution Gerin submitted purports to defend the French secular tradition, which is closely bound to national unity and the issue of women's rights. It refers, for example, to the article of 1789 and France's secular model that guarantees both personal religious freedom as well and French national unity. It asserts *laïcité* is the vehicle for integrating everyone within the society and reminds people that when *laïcité* is threatened new laws needs to be enacted, as in the case of the law banning conspicuous religious symbols in state schools in 2004. It goes on to claim that the niqab/burqa enforces 'seclusion, exclusion and humiliation' on women. The niqab/burqa is a 'negation of her citizenship'. It symbolises the husband and male relatives' dominance over a woman.

But for Gerin the burqa is 'the tip of the iceberg', describing the spread of Islamism as his greatest concern. As with Gerin's first letter to the prime minister, the resolution cites Imam Abdelkader Bouziane,<sup>7</sup> who was deported from France on the grounds that he delivered sermons 'in favour of corporal punishment for adulterous women, against a background of anti-Western rhetoric, with anti-white, anti-French racism'. The case of Mrs Faiza Silmi<sup>8</sup> (not mentioned by name) is also cited - the

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niqab-wearing wife refused French citizenship in 2008 after a ruling upheld that her values (the wearing of the niqab and her supposedly submissive behaviour towards her male relatives) were incompatible with those of the 'French community', specifically gender equality. Another case invoked involved the anti-discrimination agency, HALDE, which, when asked if female participants on IT training course could be allowed to keep their burqa or niqab on, stated that their removal was legal because 'the burqa implies a submission of the woman', and that the obligation to take off the niqab or burqa could be justified on grounds of public security and the need to identify people.

According to the resolution, the existing law was not robust enough to tackle 'these practices that we cannot tolerate in France'. Thus, it was the duty of the National Assembly to create a 'commission of enquiry' along the lines of the 'Stasi commission' (created in 2003 which argued for a law banning the wearing of 'conspicuous religious signs' in state schools).

### **Reaction to Gerin's resolution within the establishment**

Support for the resolution inside the government was not unanimous. Dissenting voices included the controversial immigration minister Éric Besson,<sup>9</sup> who believed a full ban on the niqab would 'create tensions' while the junior minister for human rights, Rama Yade, said she would accept a ban only if it were aimed at protecting women forced to wear the burqa.

Echoing the resolution, Jean-François Copé, the leader of the UMP parliamentary group in the National Assembly, believed that, 'the burqa is a political issue not a religious one.'<sup>10</sup> Copé felt 'a banning law preceded by six months to a year of dialogue and explanation', was needed.<sup>11</sup>

On the far Left Lutte Ouvrière (Workers' Struggle) publicly opposed the wearing of the burqa stating, 'to recognise the "freedom" to wear the burqa, would help deny freedom to thousands of others to reject the pressure which pushed them to wear it.'<sup>12</sup>

The Nouveau Parti Anticapitaliste (NPA, New Anticapitalist Party) website, meanwhile, contained no editorial comment on the issue of the burqa – possibly fearing that it could threaten the possibility of a broad-based left alliance it was trying to foster.

'Banning the burqa will not give freedom to women', Jean-Marie Fardeau, director of the Paris office of Human Rights Watch, said in a statement. 'It will only stigmatise

and marginalise women who wear it.'<sup>13</sup>

Among high-profile opponents of the niqab and burqa who were putting their case in the media was Elisabeth Badinter (France 2 – *Mots-Croisés*, 29 June 2009). Badinter was one of the first opponents of the hijab, as far back as 1989. She is a prominent figure in the media, a businesswoman and self-styled philosopher and feminist. In *Le Nouvel Observateur* (9 July 2009) she penned a rebuke entitled, *To those who voluntarily wear a burqa* in which she declared, 'Why don't you move to Saudi Arabia or Afghanistan where nobody would ask to see your face, where your daughters would be veiled too and where your husband would be polygamous and repudiate you whenever he wants?'<sup>14</sup>

'The rights of women isn't an issue of a few centimeters of cloth, but the burqa is the symbol of the oppression women suffer, so this debate should be encouraged', says Siham Habchi, president of the Neither Whores Nor Submissives movement (*Ni Putes Ni Soumises*) referring to the parliamentary initiative.<sup>15</sup> She was also quoted as saying, 'this is the symbol of fascism, the oppression of women. It is the Talibanisation of religion.'<sup>16</sup>

Fadela Amara, Secretary of State for urban policy and former president of the Neither Whores Nor Submissives movement, who is in favour of the ban claimed 'we must do everything to stop burkas from spreading, in the name of democracy, of the republic, of respect for women ... The worrying thing is that we are seeing more and more of them.' She described the burqa as 'a kind of tomb for women'.

Riposte Laïque, a secularist feminist organization, began an online petition called *Stop the burqa and the veil, symbols of women's submission and the Islamist offensive* in August 2009 calling on the deputies and the President to stop the 'Islamist offensive' and legislate against the burqa.<sup>17</sup>

### **Establishing the National Assembly Commission on the Burqa and Niqab**

On 22 June, addressing the assembled members of parliament at the Palace of Versailles, President Sarkozy endorsed the call for a parliamentary commission on the burqa: 'The burqa is not welcome on the territory of France', he explained:

*'The problem of the burqa is not a religious problem. It is an issue of freedom and dignity of women. This is not a religious symbol, it is a sign of subservience, it is a sign of lowering. I want to say solemnly, the burqa is not welcome in France. We cannot accept in our country women trapped*

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*behind a fence, cut off from social life, deprived of any identity. This is not the idea that we have of the dignity of women. Parliament has expressed a desire to address this question. This is the best way to proceed. There needs to be a debate and all viewpoints must be expressed. Where outside parliament could this better be expressed? But I say to you, let us not be ashamed of our values. We must not be afraid to defend them.*<sup>18</sup>

Sarkozy had previously faced attacks from feminists when he had agreed with President Obama that Muslim women in the West should be free to wear the headscarf unless it was imposed on them.

The Assembly Speaker, Bernard Accoyer, declared lawmakers from right-and left-wing parties would have six months in which to examine the issue before making recommendations. On 1 July 2009 French legislators set up a commission (a fact-finding mission on the practice of wearing the full veil on national territory) to investigate the spread of the burqa and niqab among Muslim women in France with its work starting on 8 July.<sup>19</sup> The commission was instructed to submit their report by the end of November. The commission of inquiry was comprised of thirty-two deputies: 1 Communist Party of France (PCF), 1 Green, 11 Socialist Party (PS), 17 UMP and others. The commission's reporter was UMP deputy Éric Raoult, and the chairman Gerin himself.

The commission attempted to create the impression of gathering evidence from a diverse range of sources with those submitting evidence including academics, politicians and activists. French news agency AFP cited one academic, anthropologist Dounia Bouzar, as claiming the 'full veil was imposed by the Salafists who say they base themselves on the original Islam and keep apart from the exterior world, which is considered to be impure.' She spoke of 'sectarian behavior.'<sup>20</sup>

### **Reactions of Muslim organisations and representatives**

Even if many representatives of Islamic associations and organisations close to the establishment (UOIF and CMF in particular) advocated a conciliatory tone claiming that the full veil was not a Qur'anic prescription, there was a consensus amongst them to oppose any impending ban of the veil which they thought was dangerous and would lead to the stigmatisation of the entire Muslim population in France.

An online petition encouraging Muslims to oppose any ban on the burqa collected 1,200 signatures in 24 hours.<sup>21</sup> Amongst other things, the petition asserted that

the debate on the burqa was just a tool to draw attention away from the real problems in French society and warning that a ban would lead to greater segregation for French Muslims.

Mohamed Moussaoui, President of the French Council of the Muslim Faith (CFCM), attacked Gerin's bill accusing him of not understanding 'what is behind the row over the niqab, a very marginal problem, especially at a moment when thousands of people are suffering from the consequences of the financial crisis all over the country.'<sup>22</sup> He believed a commission would be better suited to finding solutions for those made unemployed by the economic crisis.<sup>23</sup>

Mahmoud Doua, an academic and imam from Bordeaux, told the parliamentary commission that a law banning the burqa/niqab would be a mistake and would only worsen the situation. The donning of the full veil is according to Doua a practice which will be short lived and which is 'closer to a form of protest than a genuine phenomenon based on religious foundations ... The community is fearful of abuses as we've witnessed it with the banning of the hijab in state schools' he concluded in reference to a Toulouse student who was banned from presenting her viva in April 2009 for wearing a hijab although the banning of the hijab only applies in state schools and not universities.<sup>24</sup>

More militant Muslim organisations such as the CCIF (Collectif Contre l'Islamophobie en France) and the CRI (Coordination contre le Racisme et l'Islamophobie) were more outspoken in their condemnation of this new round of veil hysteria denouncing the political opportunism of Gerin and his allies.

Abdelaziz Chaambi, member of the CRI, while highlighting the extreme marginality of the full veil wrote: '*We think that the attitude of the political elite in relation to the issue of Islam and its visibility is the main source of the [rise of salafism] that we witness in our country.*' In other words, the endless stigmatisation of Muslim communities in France has marginalised Muslim leaders who have been advocating an active participation in the French society on the basis of shared and universal values while on the other hand boosting the discourse of those promoting a withdrawal from French social and political life.

### **The commission of inquiry's report on the burqa**

Despite a poll showing 57 per cent of French people want a ban on the burqa/niqab<sup>25</sup> in public spaces, concerns soon appeared that such a ban would prove diffi-

cult to administer. In November, Gerin admitted on Europe 1 radio that there could be no ban as such: 'We'll end up with recommendations ... not a law in itself against the burqa, maybe a symbolic law, a law of liber-

amongst other things that legislation calling for the banning of the full veil in public places like hospitals and post offices should follow.

The Socialists officially boycotted the final meeting

### Some notes on André Gerin

André Gerin joined the Communist Party of France (PCF) in 1964. He was a PCF town councillor in 1977, became mayor of Vénissieux in 1985 and has been an MP since 1993. Gerin was described by two journalists from *Le Monde* as 'quasi-obsessional [in his crusade] against "Islamist fundamentalism"'.<sup>26</sup> He notably supported Sarkozy during the revolts of the banlieues in 2005 and in 2007 published, *The Ghettos of the Republic* in which he denounces the worrying degradation of the French banlieues and their devastation by 'civil war'. The book was prefaced by the right wing UMP politician Éric Raoult, the first politician to declare a curfew during the 2005 riots even though his affluent town Le Raincy (east of Paris) was not affected by them.

In *The Ghettos of the Republic* Gerin writes: 'I am gradually becoming aware of the problem. The issue is about the differences between the ways of life and the culture of the Judeo-Christian world and the Islamic world.' Let's take the example of the debate on immigration. Both the Right and the Left have been acting in the same way for the last thirty years by trying to sweep it under the carpet or by avoiding saying the truth. We have refused to recognize that important differences exist between the ways of life, the cultures and the traditions of the Judeo-Christian culture and Islamic world. Everyone has remained silent. After making, in a statement in 1991, the now famous comments about "smells",<sup>27</sup> Jacques Chirac had to bend over backwards to apologise for having used such a term. As a result, he was absolutely slated. And yet he only said the truth."

ation (of women). He had shifted from the possibility of a ban saying, the goal is to achieve 'a great public action against the stranglehold Islamic fundamentalism has in certain areas of our country, especially over women'.

It emerged that there would be serious legal problems enforcing any sort of ban.<sup>28</sup> Legal experts were concerned about the implications of a ban: 'If it's voted in, a burqa ban could be declared illegal by many judges and there would be many cases challenging it from local criminal courts all the way up to the European Court of Human Rights in Strasbourg, via the Constitutional Council', law professor Denys de Béchillon warned. 'I don't know if women in burqas are really free to decide - some are and some aren't. But with the current state of the law and probably the political philosophy of our democracies, it seems difficult to decide in their place if they're free or not.'<sup>29</sup>

On 26 January 2010, the commission issued its findings and recommendations.<sup>30</sup> There was, reportedly, a deep division over a full ban of the '*voile intégral*'. Those arguing that a ban could potentially be unconstitutional both in French and European law won the day.<sup>31</sup> President Sarkozy and Prime Minister François Fillon brokered a deal with the commission officially declaring the niqab/burqa 'un-French' and recommending

of the commission, dismissing it as being hijacked by factionalism within the UMP. Although the Socialists condemned the full veil they would not endorse the final report, saying it would amount to an inconsistent 'ad hoc law'. However, several of the Socialists did break the boycott supporting an outright ban.

The commission's eventual report made fifteen recommendations, though it stopped short of recommending a full ban. Its recommendations included the following:

- the National Assembly should pass a resolution denouncing the niqab/burqa;
- a ban on the niqab/burqa should be restricted to schools, hospitals, public transport and government offices and that the wearer should be denied the services being offered there (schooling, benefits, etc);
- a bar should be imposed on foreign women obtaining asylum or French citizenship if they insisted on veiling their faces in state buildings;
- in asylum requests the forced wearing of the full veil should be an indicator of a wider context of persecution;
- a national school of Islamic studies should be set up.

Bernard Accoyer, president of the National Assembly, somberly noted, the 'all-enveloping veil represents, in an extraordinary way, everything that France instinctively rejects. This is the symbol of the enslavement of women

and the banner . . . of extremist fundamentalism.’<sup>32</sup>

Éric Raoult (UMP) said that ‘We want to fight Islamic fundamentalism. And the burqa is a manifestation of that fundamentalism.’<sup>33</sup> He thought that it was possible that the ban in public places could be enforced before the end of 2010. Hours after the report was published, Sarkozy paid a public visit to the Muslim section of Notre-Dame-de-Lozelle military cemetery in northern France, to pay his respects to a French-Senegalese soldier who was killed in Afghanistan. Sarkozy used the occasion to opine, ‘our country cannot allow us to stigmatise French citizens of the Muslim faith. Today Islam is the religion of many French men.’

But certain members of Sarkozy’s own party are intent on pushing the issue further. A draft bill on the banning of the niqab/burqa was introduced by Jean-François Copé, who wants to make it illegal for anyone to cover their faces in public for reasons of security. The draft bill contains financial penalties - women who wear the veil could be fined €750 while men, who force their wives and daughters to wear the garments, would face higher penalties. The bill, it was announced, would not be debated in the National Assembly until after the regional elections in March.<sup>34</sup> Meanwhile, UMP party spokesman Frédéric Lefebvre demanded that any woman breaking a proposed law making the garment illegal should be ‘deprived of her rights’. ‘When you don’t respect your responsibilities, you should not have access to any benefits’, he said. ‘The rights and responsibilities of citizens in France are important. When you ignore rules that make things illegal, like a ban on the burka, you have some of your rights taken away, like the right to state benefits or using public transport.’<sup>35</sup>

***Our thanks to Naima Bouteldja for research on this piece.***

## Endnotes

1 *France: Towards Banning Niqab and Burqa*, Amara Bamba, Islamonline 25/06/2009.

<[http://www.islamonline.net/servlet/Satellite?c=Article\\_C&cid=1245845947279&pagename=](http://www.islamonline.net/servlet/Satellite?c=Article_C&cid=1245845947279&pagename=)

2 See <<http://news.bbc.co.uk/1/hi/world/europe/4493706.stm>> for a description of Vénissieux. It is in a banlieue of Vénissieux, called the Minguettes that one of the first urban riots started in 1981. The Minguettes was also the scene of rioting in 2005. Two of the seven Frenchmen held at Guantánamo were from Vénissieux and Abdelkader Bouziane an imam, whom Gerin refers to in his letter to the Prime

Minister, preached in Vénissieux before he was deported amidst claims that he condoned wife-beating.

3 See <<http://reveilcommuniste.over-blog.fr/article-30144822-6.html>> for Gerin’s entire letter

4 *Le Figaro*, <<http://www.lefigaro.fr/actualite-france/2009/09/09/01016-20090909ARTFIG00040-deux-mille-femmes-portent-la-burqa-en-france-.php>>

5 It is also worth noting here that according to some research most women who wear the burqa are French nationals, many being converts who are sympathetic to the ‘salafist’ movement.

6 No 1725 Resolution <<http://www.assemblee-nationale.fr/13/propositions/pion1725.asp>>

7 For a discussion of the case of Abdelkader Bouziane, see ‘Speech crime’ and deportation, *European Race Bulletin* no. 52, Summer 2005.

8 <<http://www.salon.com/life/broadsheet/2008/07/23/veil/>>

9 Éric Besson began the debate on national identity which has also led to the stigmatisation of the Muslim communities in France.

10 <<http://wsws.org/articles/2009/jul2009/burq-j14.shtml>>

11 <<http://wsws.org/articles/2009/jul2009/burq-j14.shtml>>

12 <<http://wsws.org/articles/2009/jul2009/burq-j14.shtml>>

13 <[http://www.huffingtonpost.com/2009/06/23/french-burqa-ban-commissi\\_n\\_219579.html](http://www.huffingtonpost.com/2009/06/23/french-burqa-ban-commissi_n_219579.html)>

14 <<http://muslimahmediawatch.org/2009/09/the-french-disconnection-on-the-role-of-media-and-politics-in-the-burqa-ban/>>

15 *Will France Impose a Ban on the Burqa?* Bruce Crumley, June 2009 <<http://www.time.com/time/world/article/0,8599,1905554,00.html?xid=rss-world>>

16 <<http://www.euronews.net/2009/06/24/french-burqa-commission-gets-mixed-reaction/>>

17 <<http://www.ripostelaique.com/Stop-the-burqa-and-the-veil,2598.html>>

18 <<http://jurist.law.pitt.edu/paperchase/2009/06/france-parliament-establishes.php>>

19 <<http://in.reuters.com/article/worldNews/idINIndia-40745720090702>>

20 <<http://wsws.org/articles/2009/jul2009/burq-j14.shtml>>

21 <<http://jesigne.fr/contreunenouvelloislamophobe>>

22 <[http://www.islamonline.net/servlet/Satellite?c=Article\\_C&cid=1245845947279&pagename=IslamOnline-Mobile%2FWapLayout&zone=EME](http://www.islamonline.net/servlet/Satellite?c=Article_C&cid=1245845947279&pagename=IslamOnline-Mobile%2FWapLayout&zone=EME)>

23 <<http://news.bbc.co.uk/1/hi/world/europe/8112821.stm>>

24 <<http://www.liberation.fr/societe/0101595725-le-port-de-la-burqa-c-est-davantage-une-forme-de-protestation>>

25 <<http://www.ipsos.fr/Canallpsos/articles/2969.asp?rubld=19>>

26 <[http://www.lemonde.fr/societe/article/2010/01/23/drole-d-attelage-contre-la-burqa\\_1295608\\_3224.html](http://www.lemonde.fr/societe/article/2010/01/23/drole-d-attelage-contre-la-burqa_1295608_3224.html)>

27 A reference to the statement made by Chirac in 1991 when he was mayor of Paris: ‘It is clear that having Spanish, Polish or Portuguese people ... poses fewer problems than

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having Muslims or blacks. How do you think a French worker feels when he sees on the landing a family with a man who has maybe three or four wives, about 20 kids, who receives around 50,000 francs in social services, of course without working ... and if you add the noise and smell ... no wonder the French worker across the landing goes mad!

**28** On this, see the following link for the testimony provided by a number of mayors before the commission.

<<http://blogs.reuters.com/faithworld/2009/09/30/bumps-on-the-road-towards-a-burqa-ban-in-france/>>

**29** <<http://blogs.reuters.com/faithworld/2009/11/13/france-retreats-from-burqa-ban-plan-amid-burst-of-hot-air/>>

**30** The full report is available in French at

<<http://jurist.law.pitt.edu/pdf/rapportviole.pdf>>

**31** <<http://www.independent.co.uk/news/world/europe/inquiry-condemns-burka-as-unfrench-1879991.html>>

**32** <<http://www.euro-islam.info/2010/02/12/french-legislatures-report-on-the-burqa-ban/>>

**33** <<http://www.dw-world.de/dw/article/0,,5169860,00.html>>

**34** <<http://www.independent.co.uk/news/world/europe/france-moves-to-outlaw-the-burka-and-niqab-citing-galit-1861411.html>>

**35** <<http://www.dailymail.co.uk/news/worldnews/article-1244402/Women-wear-burka-banned-benefits-public-transport-claims-French-government-spokesman.html>>

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