

French Constitutional Council approves burqa ban

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On October 7, the French Constitutional Council approved a law banning the wearing of full-face veils, such as the burqa or niqab, in all public places. It released a communiqué declaring the ban to be constitutional.

The anti-burqa law will become effective next spring. According to the law, a woman wearing a burqa or niqab in France will face a €150 fine and be forced to take citizenship classes. Anyone deemed guilty of forcing a woman to wear a full-face veil will face a €30,000 fine and one year in jail.

After the ban was voted by the Senate on September 14, the presidents of the Senate and National Assembly submitted the bill to the Constitutional Council, so that “its conformity with the Constitution could not be affected by any uncertainty”. The ban was widely—and correctly—viewed to be an unconstitutional attack on democratic rights, aimed at demonising Muslims.

When the French government launched its anti-burqa campaign, the Council of Europe and Amnesty International criticized the ban, declaring that it “violates the rights to freedom of expression and religion of women”.

As it turned out, the Constitutional Council has acted as a judicial rubber-stamp for the chauvinist, anti-Muslim measure. The articles from the *Declaration of the Rights of Man* (1789)—a product of the French Revolution and considered to have “constitutive value”—cited by the Council’s communiqué prove conclusively that the burqa ban is unconstitutional, and that the state’s attempts to enforce it involve a descent into official witch-hunting and illegality.

- Article 4 of the *Declaration* reads: “Liberty consists of the ability to do anything which does not harm others; thus, the natural rights of man are limited only by the need to ensure that other members of Society can enjoy

the same rights.”

- Article 5 declares: “Anything which is not explicitly banned by law cannot be prevented, and no one can be forced into actions that the law does not mandate.”

- Article 10 declares: “No one can be troubled due to their opinions, including religious opinions, as long as their expression does not trouble public order as established by law.”

- Finally, the Constitutional Court cited the Preamble to the Constitution of 1946, which says, “The law guarantees women equal rights to those of men in all spheres.”

The act of wearing a burqa does not by itself harm others, trouble public order, or attack the equality of rights between women and men. The act of forcing a woman to remove her burqa is, however, forcing her into actions that no previous law required. That is, the current ban violates all of these basic constitutional principles.

In a clumsy concession to widespread sentiment that the ban is unconstitutional, the Council ruled that women could wear burqas in places of worship. It noted that the burqa ban “could not restrict the exercise of religious liberty in places of worship that are open to the public”. It did not, however, explain the how it could be constitutional to restrict religious liberty outside places of worship.

The Council’s decision underscores how the entire French political establishment has shifted further to the right, promoting racist, anti-Muslim and anti-immigrant sentiment in order to divert rising discontent in the working class.

Government officials praised the Council’s decision,

cynically claiming that the ban represented a defense of women's rights and of secularism in opposition to Islamic fundamentalism. Prime Minister François Fillon called the ruling "important for the affirmation of Republican values while respecting liberty of conscience and religion".

Jean-François Copé, the president of the UMP (*Union pour un mouvement populaire*, the ruling conservative party) National Assembly group asserted: "The constitutional council's validation [of the ban] is a firm response and a strong signal to all women who are struggling for their dignity".

The bourgeois "left", notably the Socialist Party (PS) and the Communist Party (PCF), and its supporters like the pseudo-left New Anti-Capitalist Party (NPA) also supported the ban, underscoring their complicity in the anti-democratic campaign of President Nicolas Sarkozy.

It doesn't appear to bother any of these "left" ladies and gentlemen that the power of the French imperialist state—its hands still dripping with blood from oppression in Indochina, North Africa and West Africa in particular—is now being brought to bear against a relative handful of Muslim women, in a manner that can only remind one of the persecution of the Jews in the 1930s and 1940s.

The Socialist Party deputies welcomed the Council's decision to ban the burqa. PS deputy François Rebsamen, who calls for strong police measures to suppress violence and petty crimes in impoverished immigrant neighborhoods, told *Le Monde*, the French daily: "All Socialists, of course, and more broadly all Republicans, condemn the use of the burqa in our country and elsewhere. It's a matter of the dignity of women."

For its part, the NPA supported the ban essentially on the basis of defending women's rights, helping cover up the antidemocratic and vindictive content of the law. (See "The French New Anti-Capitalist Party and the anti-burqa campaign".)

In the absence of political opposition to attacks on democratic rights, the burqa ban sets the stage for the ruling class to intensify attacks on the democratic rights of the entire working class.

On October 13, the French National Assembly adopted a reactionary immigration law, which includes removing French citizenship from foreign-born immigrants convicted of crimes against police or public officials. It

also facilitates the expulsion of undocumented immigrant workers. (See "French National Assembly debates anti-immigration law")

During the summer, having begun a campaign to dismantle Roma camps, the French government accelerated the deportation of Roma to Romania and Bulgaria. Despite its previous criticism of Sarkozy's discriminatory policy against Roma, the European Union recently backed down on its criticism of France's Roma policy.

The Constitutional Council's decision came on the same day as *Le Monde* revealed that the French authorities had compiled a database, MENS (Non-Settled Ethnic Minorities), which illegally targets Roma and nomads. MENS was set up by the Central Office for the Fight Against Itinerant Delinquency (OCLDI), a body run by the French *gendarmerie*.

Lawyers acting for Roma rights groups called for prosecutors to launch an investigation into those responsible for "assembling an undeclared database, and conserving personal data showing ethnic and racial origins".

Françoise Cotta, a lawyer representing Roma groups, said: "We're not in 1940, we expect a public reaction so this will stop, very quickly. The government itself is now the main danger to social peace."

Le Monde wrote: "Nomads' associations found the famous database on the Internet—in a document outlining the OCLDI's mission, as explained during a November 2004 meeting in Lille by the OCLDI's leading officer, who made some imprudent remarks. One page discussed the 'genealogy of gypsy families', which is hard to establish without a database". It added, "By clicking on a map of France, the commander could bring up, region by region, nomads' family names."

The police also had a database of all foreign Roma who had been stopped by the *gendarmerie*, from 2000 to 2004, indicating their nationality—Romanian, Hungarian, Moldavian, Albanian, etc.



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