

# POLITICS OF THE HEADSCARF IN TURKEY: MASCULINITIES, FEMINISM, AND THE CONSTRUCTION OF COLLECTIVE IDENTITIES

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## INTRODUCTION

Islamic veiling is not merely a religious practice, but a highly contested political symbol within Muslim societies and the global political arena. The politics of veiling, or covering, have been particularly prominent in Turkey, a secular democracy in which ninety-nine percent of citizens are Muslim.<sup>1</sup> In 1982, Turkey moved to ban headscarves worn for religious purposes in all universities, both public and private, as well as in government offices.<sup>2</sup> Since then, the issue of the headscarf has been a hotly contested and deeply politicized issue.<sup>3</sup> Both the European Court of Human Rights (“ECHR”) and the Turkish Constitutional Court have rejected claims that the ban denies women their right to religious freedom and education.<sup>4</sup> Instead, both courts

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<sup>1</sup> U.S. Department of State, Background Note: Turkey, <http://www.state.gov/r/pa/ei/bgn/3432.htm> (last visited Mar. 8, 2010).

<sup>2</sup> Ayşe Saktanber & Gül Çorbacıoğlu, *Veiling and Headscarf-Skepticism in Turkey*, 15 SOC. POL.: INT’L STUD. GENDER, ST., & SOC’Y 514, 534 (2008).

<sup>3</sup> See JOAN WALLACH SCOTT, *POLITICS OF THE VEIL* 1–3 (2007).

<sup>4</sup> See *Leyla Şahin v. Turkey*, 11 Eur. Ct. H.R. 175, 208, 216 (2005); Anayasa Mahkemesi [Constitutional Court], Jun. 5, 2008, Esas No. 2008/16 [Basis Number],

have held that the ban is a necessary and reasonable response to the threat allegedly posed by fundamentalist Islam to Turkey's secular democracy.<sup>5</sup> Most recently, the Turkish Constitutional Court in 2008 annulled amendments to the Turkish Constitution lifting the headscarf ban, holding that the amendments violated the principles of secularism enshrined in the Constitution.<sup>6</sup>

In the United States, most legal scholars have analyzed the issue of state regulation of veiling within a rights-based framework, focusing on the individual right to religious freedom and expression.<sup>7</sup> Feminist legal scholars similarly have framed the issue within a rights-based paradigm, considering whether the bans violate women's right to religious freedom or right to gender equality.<sup>8</sup> Some feminist scholars have argued that veiling represents the symbolic and actual subordination of women.<sup>9</sup> Adrien Wing, a leading critical race feminist, has argued that the ban in Turkey is a necessary restriction on women's religious expression in order to protect Turkish democracy

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Karar No. 2008/116 [Decision Number] (TC Resmi Gazete [Official Gazette of Republic of Turkey], 2008, No. 27032) (Turk.).

<sup>5</sup> *Şahin*, 11 Eur. Ct. H.R. at 201-207; Anayasa Mahkemesi [Constitutional Court], Jun. 5, 2008, Esas No. 2008/16 [Basis Number], Karar No. 2008/116 [Decision Number] (TC Resmi Gazete [Official Gazette of Republic of Turkey], 2008, No. 27032) (Turk.).

<sup>6</sup> See Nurhan Süral, *Islamic Outfits in the Workplace in Turkey, A Muslim Majority Country*, 30 COMP. LAB. L. & POL'Y J. 569, 582 (2009).

<sup>7</sup> See generally Karima Bennoune, *Secularism and Human Rights: A Contextual Analysis of Headscarves, Religious Expression, and Women's Equality Under International Law*, 45 COLUM. J. TRANSNAT'L L. 367 (2007) (examining whether it is possible to harmonize the right to religious freedom with the right to substantive gender equality); Peter G. Danchin, *Suspect Symbols: Value Pluralism as a Theory of Religious Freedom in International Law*, 33 YALE J. INT'L L. 1 (2009) (discussing the headscarf bans within the framework of the right to religious freedom in international law); Alain Garay, Blandine Chélini-Pont, Emmanuel Tawil & Zarah Anseur, *The Permissible Scope of Legal Limitation on the Freedom of Religion or Belief in France*, 19 EMORY INT'L L. REV. 785 (2005) (discussing French law's restraint on religious freedom); Susanna Mancini, *The Power of Symbols and Symbols as Power: Secularism and Religion as Guarantors of Cultural Convergence*, 30 CARDOZO L. REV. 2629, 2630 (2008) (reasoning that "religious symbols play a peculiar role in identity-related dynamics."); Mukul Saxena, *The French Headscarf Law and the Right to Manifest Religious Belief*, 84 U. DET. MERCY L. REV. 765 (2007) (arguing that the French Headscarf Law violates international law by infringing on Muslim school children's religious freedom); Adrien Katherine Wing & Ozan O. Varol, *Is Secularism Possible in a Majority-Muslim Country?: The Turkish Example*, 42 TEX. INT'L L.J. 1 (2006) (arguing that the ban on veiling in Turkey is a necessary limitation on women's religious freedom).

<sup>8</sup> See Bennoune, *supra* note 7 (critiquing the relationship between feminism and religious freedom in the context of the headscarf debate); Rachel Rebouché, *The Substance of Substantive Equality: Gender Equality and Turkey's Headscarf Debate*, 24 AM. U. INT'L L. REV. 711 (2009) (considering whether the headscarf ban advances the substantive equality of women); Wing & Varol, *supra* note 7.

<sup>9</sup> See, e.g., Elene G. Mountis, *Cultural Relativity and Universalism: Reevaluating Gender Rights in a Multicultural Context*, 15 DICK. J. INT'L L. 113, 132 (1997) (explaining that Muslim women "are forced to hide behind their traditional garments and to shield the world from their 'dangerous' sexuality").

from extreme Islamic fundamentalists who seek to transform Turkey into a religious state.<sup>10</sup>

The interpretation of state regulation of covering within a rights-based perspective appears natural when viewed through the lens of a Western legal scholar within a liberal democratic tradition. This legal academic debate, however, ignores the nature of the headscarf as a gendered symbol and a site for conflicting claims of national and global geopolitical identity. Veiling has multiple meanings that can be understood only by closely examining its social and historical context in a particular location and time. The headscarf is not solely a religious symbol or practice, nor its regulation merely an issue of individual rights or liberty. In Turkey, the headscarf is a powerful symbol used to construct power relations between men and women, between secularists and Islamists, between the West and political Islam.<sup>11</sup>

Masculinities theory, I argue, offers a critical lens through which to reconsider the headscarf and its relationship to gender, political power, and the state. Like feminist theory, masculinities theory assumes that gender is a social practice constructed by and between men and women as well as

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<sup>10</sup> See Wing & Varol, *supra* note 7, at 47.

<sup>11</sup> Çýnar argues that “the new state instituted its secularism through the unveiling of the female body, [and] the Islamist elite of the 1990s instituted their Islamism by veiling the female body, similarly using the body and its clothing as a site from which their nationalist project was articulated.” ALEV ÇINAR, MODERNITY, ISLAM, AND SECULARISM IN TURKEY 74 (2005). Both groups, Çýnar argues, used the veil to vest themselves with political agency at the expense of women, defining men as the protectors and saviors of women. *Id.* at 86–87. At the global level, the veil also symbolizes the struggle between the West and Islamism. As Çýnar argues, “[t]he image of the veiled woman has become one of the most powerful tropes of Islamic fundamentalism in the Western media, becoming a more potent symbol of Islam than the mosque.” *Id.* at 75. Because the veil draws attention to what is hidden and inaccessible, it “allows for the mystification of political Islam, conveniently making it project fear and threat.” *Id.*; see also Caroline Nagel, *Introduction to GEOGRAPHIES OF MUSLIM WOMEN: GENDER, RELIGION, AND SPACE* 1, 1–3 (Ghazi-Walid Falah & Caroline Nagel eds., Guilford Press 2005); Anna Secor, *Islamism, Democracy, and the Political Production of the Headscarf Issue in Turkey*, in *GEOGRAPHIES OF MUSLIM WOMEN: GENDER, RELIGION, AND SPACE*, *supra*, at 203–225; Yeşim Arat, *Group-Differentiated Rights and the Liberal Democratic State: Rethinking the Headscarf Controversy in Turkey*, 25 *NEW PERSPECTIVES ON TURKEY* 31 (2001) at 31–46; Saktanber & Çorbacıođlu, *supra* note 2, at 517 (explaining that “the Islamic headscarf has almost become a trope to denote the problems intrinsic to the foundations of the republic and its secular regime”); Nora Onar, *Freedom of Religion v. Secularism?: Universal Rights, Turkish Islamism, and the Headscarf Ban*, (Eur. & the Mediterranean Convergence, Conflicts & Crisis Working Paper Series, RAMSES Working Paper No. 8/07, 2007), 15–16, available at <http://www.sant.ox.ac.uk/esc/ramses/onar.pdf> (arguing that “[t]he headscarf or lack thereof became a powerful symbol of the exclusion of Islamic values from the lifelines of the state” and that, to supporters of the ban, veiling “represent[s] a symbolic challenge to the secular body politic”). Göle argues, “when the veiling of women is claimed as the symbol of Islamic movements, what is actually being acted out is the intersection of political ideology and the power relations between the sexes.” NİLÜFER GÖLE, *THE FORBIDDEN MODERN: CIVILIZATION AND VEILING* 136 (1996). The emergence of veiled women, while arguably enforcing the segregation between the sexes in Islam, also rejects their confinement to the private sphere and “transforms existing relations between men and women.” *Id.* at 139–40.

within particular social institutions, including the state.<sup>12</sup> Men and masculinities are not fixed or unitary, but rather multiple and fluid, varying “across time (history) and space (cultures), within societies, and through life courses and biographies.”<sup>13</sup> The headscarf debate in Turkey reveals how masculinities construct gender within a range of social institutions, including the state and transnational relations of power, through the regulation of women’s bodies. Islamic covering is a gendered practice that “is instrumental in conveying political meanings.”<sup>14</sup> In Turkey, the headscarf issue is a proxy for political struggle between secularists and Islamists.<sup>15</sup> Covering constructs boundaries of identity and difference—boundaries between men and women, between Turkish secular elites and political Islamic leaders, and between the global West and transnational Islam.<sup>16</sup>

Yet women have been critical agents in this debate. As Turkish scholar Nilüfer Göle argues, “[v]eiling is the most salient emblem and women the newest actors of contemporary Islamism.”<sup>17</sup> Assuming that gender is constructed relationally, masculinities theory needs to consider women as active agents who negotiate their identity in a particular social and historical space. The question then arises, how do women respond to the gendered relations of power constructed by competing masculinities?

While many Western and indeed some Kemalist feminist scholars portray Turkish women as passive victims compelled to cover by a patriarchal religion or political movement, Göle and other Turkish scholars have focused on the diversity of veiling practices among women based on their membership in different social and economic classes, their regional origin, and their religious commitments.<sup>18</sup> Their research suggests that a certain group of women—young, urban, and typically the daughters of migrants from rural areas—deliberately embraced the choice to cover, challenging the secular elites as a political matter.<sup>19</sup> These women challenged both the secular construction of the headscarf as a means of Islamic male oppression, as well as the Islamist masculinist construction of the veil as protector of wo-

<sup>12</sup> R.W. CONNELL, *MASCULINITIES* 67–74 (1995).

<sup>13</sup> R.W. Connell, Jeff Hearn & Michael S. Kimmel, *Introduction* to *HANDBOOK OF STUDIES ON MEN & MASCULINITIES* 1, 3 (Michael S. Kimmel, Jeff Hearn, & R.W. Connell eds., 2005).

<sup>14</sup> GÖLE, *supra* note 11, at 4.

<sup>15</sup> I use the terms “secularist” and “Islamist” recognizing the complexity of labeling within the Turkish context, where secularism is based upon state control over religion and the removal of religion from the public sphere, and where the AKP claims it seeks to reconcile Islam with Western democracy. See Süral, *supra* note 6, at 570–72.

<sup>16</sup> See ÇINAR, *supra* note 11, at 74–75 (2005); GÖLE, *supra* note 11, at 1–6.

<sup>17</sup> GÖLE, *supra* note 11, at 1.

<sup>18</sup> See ÇINAR, *supra* note 11, at 59–65; GÖLE, *supra* note 11, at 88–104 (arguing that veiled university students “embody the urban, educated, and militant new countenance of Islam”); Özlem Sandıkcı & Güliz Ger, *Veiling in Style: How Does a Stigmatized Practice Become Fashionable?*, 37 *J. CONSUMER RES.* (forthcoming June 2010), available at <http://ssrn.com/abstract=150746>, 29–30.

<sup>19</sup> See GÖLE, *supra* note 11, at 88–104.

men's modesty and place in the *mahrem*, or domestic sphere.<sup>20</sup> Their choice to cover undercuts the secular construction of femininity that assumes that young women who cover are Islamic political pawns. At the same time, their political participation undercuts the Islamic construction of femininity that locates women within the private sphere.<sup>21</sup>

Part I of this Article examines the decisions of the Turkish Constitutional Court and the ECHR holding that the ban was a legitimate limitation on women's religious freedom that was reasonably necessary to protect Turkish secularism from the threat of radical Islam.<sup>22</sup> In each of these cases, the court ignored the issue of women's autonomy and agency, assuming that women are victims of radical Islam rather than political actors whose dress is both religious and political. Part II discusses the social and political context of the Turkish ban on veiling, locating it as a regulatory practice that employs women's bodies as the site for competing nationalist masculinities through history—during the Ottoman Empire, the subsequent creation of the Turkish Republic, and the present struggle between secularists and Islamists. Throughout history, the bodies of Turkish women were symbolic sites for political struggles within Turkey and within the global community.<sup>23</sup> Part III explores the role of Turkish women in the current debate over the headscarf.

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<sup>20</sup> Göle explains:

Islamic women who have used the "opportunity realm" granted to women by Kemalism have rejected Islamic prohibitions and have subverted the established relations between men and women in the *mahrem* sphere as well as increased their own participation in the public realm. As it is different from Kemalist feminism, it is troubling for these women to speak out about their demands for participation in the social life, since it requires subversion of the prevalent gender relations embedded in the private sphere.

GÖLE, *supra* note 11, at 140.

<sup>21</sup> Göle argues that these women simultaneously challenge the secularist effort to keep Islam from the public sphere of the universities and government while also confronting Islamist ideology by their "exit from the *mahrem*," which:

forces women to question traditional gender identities and male definitions of "licit" and "illicit" behavior, thereby unveiling relations of power between Islamist men and women. Criticizing the "pseudoprotectionism" of Muslim men, veiled women claim their right to "acquire personality"—that is, a "life of their own"—and, consequently, provoke disorder in Islamic gender definitions and identities.

GÖLE, *supra* note 11, at 22.

<sup>22</sup> *Leyla Şahin v. Turkey*, 11 Eur. Ct. H.R. 175, 208 (2005) (holding that the Turkish ban did not violate female medical student's right to religious freedom); *Anayasa Mahkemesi* [Constitutional Court], Jun. 5, 2008, Esas No. 2008/16 [Basis Number], Karar No. 2008/116 [Decision Number] (TC Resmi Gazete [Official Gazette of Republic of Turkey], 2008, No. 27032) (Turk.).

<sup>23</sup> See GÖLE, *supra* note 11, at 5 (arguing that the headscarf dispute in Turkey post-1983 "is considered as a manipulative tool of the rising Islamist fundamentalist movement and, consequently, has provoked a very polarized political dispute between secularists and Islamists").

I. THE ECHR AND TURKISH CONSTITUTIONAL COURT: COVERING AS  
ISLAMIC FUNDAMENTALISM AND THREAT  
TO SECULARIST DEMOCRACY

Islamic veiling, or covering, is not unitary or fixed but differs in form and practice. Sura XXIV, Verse 31 of the Qu'ran is read to require women to cover:

And say to the believing women / That they should lower / Their gaze and guard / Their modesty; that they / Should not display their / Beauty and ornaments except / What (must ordinarily) appear / Therof; that they should / Draw their veils over / Their bosoms and not display / Their beauty except / To their husbands, their fathers / Their husbands' fathers, their sons / Their husbands' sons / Their brothers or their brothers' sons, / Or their sisters' sons, / Or their women, or the slaves / Whom their right hands / Possess, or male servants / Free of physical needs, / Or small children who / Have no sense of the shame / Of sex; and that they / Should not strike their feet / In order to draw attention / To their hidden ornaments. / And O ye Believers! / Turn ye all together / Towards God, that ye / May attain Bliss.<sup>24</sup>

Another verse states:

O Prophet! Tell / Thy wives and daughters, / And the believing women, / That they should cast / Their outer garments over / Their persons (when abroad): / That is most convenient, / That they should be known / (As such) and not molested. / And God is Oft-Forgiving, / Most Merciful.<sup>25</sup>

Veiling removes the physical attributes and beauty of women from the gaze of men, instead reserving their beauty for the private sphere of the home, and thereby protects men from temptation.<sup>26</sup> The Qu'ran does not mandate any more specific types of dress.<sup>27</sup> *Fikih*, the books of law, prescribe the manner of veiling, requiring that the hair, head, and neck be covered (called *hijab* in Arabic) and a long cloak or dress worn loosely over clothes (*jilbab*).<sup>28</sup> Islamic scholars and feminists, however, debate whether women must cover their heads and, if so, the specific manner of covering.<sup>29</sup>

<sup>24</sup> THE HOLY QUR'AN 904–05 (Abdullah Yusef Ali trans., Tahrike Tarsile Qur'an, Inc. 1987).

<sup>25</sup> *Id.* at 1126–27.

<sup>26</sup> GÖLE, *supra* note 11, at 93.

<sup>27</sup> Nusrat Choudhury, *From the Stasi Commission to the European Court of Human Rights: L'Affaire Du Foulard and the Challenge of Protecting the Rights of Muslim Girls*, 16 COLUM. J. GENDER & L. 199, 217–18 (2007).

<sup>28</sup> FADWA EL GUINDI, VEIL: MODESTY, PRIVACY AND RESISTANCE 139 (1999); GÖLE, *supra* note 11, at 93.

<sup>29</sup> *Id.* at 218 n.76 (citing examples of the range of Islamic interpretations of veiling).

Covering practices differ across time, place, class, and particular religious interpretations.<sup>30</sup>

In Turkey, approximately seventy percent of Turkish women cover their heads, a percentage that varies widely depending on region and class.<sup>31</sup> Unlike women in Afghanistan, who primarily wear the *burqa*, a black or dark colored garment that covers the head, face, and body except for the hands,<sup>32</sup> less than three percent of women in Turkey wear this form of Islamic attire, which they call the *çarşaf*.<sup>33</sup> Instead, women in Turkey wear multiple forms of cover that differ according to time and place—ranging from simple headscarves to Islamic high couture debuted on the catwalk at fashion shows in Istanbul.<sup>34</sup>

Rural women and elderly women often wear a traditional scarf, known as the *başörtüsü*, which loosely covers the hair and is tied under the chin.<sup>35</sup> In the 1980s, a different form of covering, called the *türban*, emerged that “reflect[ed] both changing class dynamics and the politicization of Islam in Turkey.”<sup>36</sup> This style of covering, also known as *tessetur*, included larger scarves draped over the neck and shoulders and worn with shapeless overcoats.<sup>37</sup> Since then, “softer,” more urban forms of *tessetur* have followed.<sup>38</sup> While urban, working poor women in Istanbul still wear the formless overcoat, many younger women, as discussed more fully in Part III below, have replaced the overcoat with more narrow versions or wear a tunic over pants or jeans.<sup>39</sup>

In Turkey, regulation of veiling has differed over time. The Ottoman Empire, which incorporated Islamic law, issued various decrees requiring veiling and prohibiting certain forms of attire for women that were considered inconsistent with Islam.<sup>40</sup> In 1923, Mustafa Kemal, known as “Atatürk,” established the Turkish Republic as a secular democratic state.<sup>41</sup> Atatürk instituted a number of reforms that sought to eradicate Islam from the public sphere and replace Islam with Westernized culture.<sup>42</sup> To Atatürk, veiling by Muslim women was “backward” and incompatible with a mod-

<sup>30</sup> EL GUINDI, *supra* note 28, at 11–12; Choudhury, *supra* note 27, at 217–18; Secor, *supra* note 11, at 208.

<sup>31</sup> Secor, *supra* note 11, at 207–08.

<sup>32</sup> *Behind the Burqa: A Woman Photographer's View of Afghanistan*, NAT'L GEOGRAPHIC, Oct. 22, 2008, <http://blogs.nationalgeographic.com/blogs/news/chieffeditor/2008/10/behind-the-burqa.html>.

<sup>33</sup> Secor, *supra* note 11, at 207–08.

<sup>34</sup> Sandikci & Ger, *supra* note 18; Secor, *supra* note 11, at 207–08.

<sup>35</sup> Secor, *supra* note 11, at 207–08.

<sup>36</sup> *Id.*

<sup>37</sup> Sandikci & Ger, *supra* note 18.

<sup>38</sup> *Id.* (discussing the “softening” of *tessetur*).

<sup>39</sup> *Id.*; see *supra* Part III.

<sup>40</sup> See Sandikci & Ger, *supra* note 18.

<sup>41</sup> Secor, *supra* note 11, at 206.

<sup>42</sup> Saktanber & Çorbacıoğlu, *supra* note 2, at 517; Secor, *supra* note 11, at 206.

ern, Western society.<sup>43</sup> While Atatürk did not issue a national ban on veiling, he and his followers (“Kemalists”) urged its removal, and many local authorities prohibited the practice.<sup>44</sup>

Despite the state’s efforts, veiling did not disappear, particularly in rural areas.<sup>45</sup> As rural Muslims began to migrate to Istanbul and other urban areas, a growing working and middle class began to emerge, appearing in public spaces, such as universities, wearing the new form of cover, the turban.<sup>46</sup> In response, Turkey imposed a ban on the wearing of headscarves in universities and public offices in 1982.<sup>47</sup> During the mid-1980s, the headscarf ban became a flashpoint for conflict between secularists and Islamists in Turkey, as protests against the ban increased.<sup>48</sup> Turkish secularists supported the ban, perceiving student activism as a symbol of political Islam that threatened to destroy Turkey’s secular democracy.<sup>49</sup> In response, Islamic political parties in Turkey similarly claimed veiled women as the symbolic embodiment of Islam.<sup>50</sup>

The universities soon became the site for the confrontation between Islamists and secular elites. In the mid-1980s, female university students in Istanbul began challenging the ban, arguing that it violated their right to religious freedom.<sup>51</sup> These young women participated in protests and dem-

<sup>43</sup> Saktanber & Çorbacioğlu, *supra* note 2, at 517 (explaining that veiling was inconsistent with the new Republic’s goal of becoming part of “contemporary (read ‘European’) civilization”).

<sup>44</sup> ÇINAR, *supra* note 11, at 59, 62–64 (discussing rhetorical campaign to encourage women to unveil and appear in public as “modern” women); GÖLE, *supra* note 11, at 73; Onar, *supra* note 11, at 11 (noting that the Islamic veil was strongly discouraged by the early Turkish Republic).

<sup>45</sup> Secor, *supra* note 11, at 207.

<sup>46</sup> See GÖLE, *supra* note 11, at 90–91; Secor, *supra* note 11, at 207.

<sup>47</sup> Saktanber & Çorbacioğlu, *supra* note 2, at 534.

<sup>48</sup> ÇINAR, *supra* note 11, at 75 (“The use of the Islamic headscarf as part of the new veiling has been the central focus of political controversies in Turkey since it first became a matter of public debate in the mid-1980s.”); Secor, *supra* note 11, at 203.

<sup>49</sup> ÇINAR, *supra* note 11, at 75, 172–73.

<sup>50</sup> Çınar explains that the Refah Party:

used the opportunity to define the headscarf controversy as a battle between secularism and Islamism, thereby turning the headscarf into the standard marking the battlefield on which their own battle would be fought. . . . Islamist writers started to call “all Muslims” to rally behind the headscarf, which, according to a columnist, was “akin to the national flag.”

ÇINAR, *supra* note 11, at 85. The Islamic nationalist movement’s premise was that Turkey was “inherently and unarguably Muslim, and therefore its people deserved to live in accordance with Islamic values, norms, and principles.” *Id.* at 86; see also Arat, *supra* note 11, at 37–38.

<sup>51</sup> Çınar explains that “[c]ontrary to secularist expectations, these students did not resort to Koranic references or to requirements of a pious Muslim lifestyle in defense of their choice to wear the headscarf, but rather evoked liberal democratic values, namely freedom of conscience and individual rights.” ÇINAR, *supra* note 11, at 82–83; Yeşim Arat, *Feminists, Islamists, and Political Change in Turkey*, 19 POL. PSYCHOL. 117, 126 (1998) (arguing that by wearing headscarves in universities, Islamist women “relied on their constitutional rights to practice religion without obstruction as they sought legitimacy for the wearing of headscarves in public institutions”).

onstrations at universities and hunger strikes to persuade state officials to eliminate the ban.<sup>52</sup> In response, the Higher Education Council twice removed restrictions on wearing the headscarf, in 1989 and 1991.<sup>53</sup> The Turkish Constitutional Court, however, annulled both repeal attempts, holding on March 7, 1989 that secularism was an essential condition for democracy and that, “[i]n a secular regime, religion is shielded from a political role.”<sup>54</sup> The Court concluded that:

The headscarf and the particular style of clothing that accompanies it, which lacks a modern appearance, is not an exemption but a tool of segregation. . . . This situation, which is the display of a pre-modern image, is increasingly becoming widespread and this is unacceptable in terms of the principles of secularism, reformism and the Republic. Using democratic principles to challenge secularism is the abuse of freedom of religion.<sup>55</sup>

Women and conservative Islamic political parties continued to agitate for repeal of the ban. A female medical student, Leyla Şahin, challenged the headscarf ban in the ECHR, alleging that it violated her right to religious freedom and right to education under the Convention of European Human Rights.<sup>56</sup> Şahin was a medical student at Istanbul University and was denied access to examinations because she was wearing a headscarf.<sup>57</sup> Because she refused to comply with the dress code and remove her headscarf, the university brought disciplinary proceedings against her and issued a warning.<sup>58</sup> Later, she participated in an unauthorized assembly outside the dean’s office at the university to protest against the headscarf ban.<sup>59</sup> The dean of the faculty began disciplinary proceedings against the students who joined the assembly and suspended Şahin for a semester.<sup>60</sup> Şahin applied to the Istanbul Administrative Court for an order quashing the suspension, but it was dismissed.<sup>61</sup> The Supreme Administrative Court subsequently held that it was unnecessary to examine the merits of her appeal.<sup>62</sup>

<sup>52</sup> ÇINAR, *supra* note 11, at 82.

<sup>53</sup> *Id.* at 83.

<sup>54</sup> *Leyla Şahin v. Turkey*, 11 Eur. Ct. H.R. 175, 188 (2005). Anayasa Mahkemesi [Constitutional Court], Mar. 7, 1989, Esas No. 1989/1 [Basis Number], Karar No. 1989/12 [Decision Number] (TC Resmi Gazete [Official Gazette of Republic of Turkey], 1989, No. 20216, Safya No. 25 [page]) (Turk.).

<sup>55</sup> Anayasa Mahkemesi [Constitutional Court], Mar. 7, 1989, Esas No. 1989/1 [Basis Number], Karar No. 1989/12 [Decision Number] (TC Resmi Gazete [Official Gazette of Republic of Turkey], 1989, No. 20216) (Turk.); *see also* ÇINAR, *supra* note 11, at 83.

<sup>56</sup> *Şahin*, 11 Eur. Ct. H.R. at 182.

<sup>57</sup> Saktanber & Çorbacıoğlu, *supra* note 2, at 529.

<sup>58</sup> *Şahin*, 11 Eur. Ct. H.R. at 182.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 182–83.

<sup>62</sup> *Id.* at 183.

Before the ECHR, Şahin alleged a violation of Article 9 of the Convention, which guarantees the right to freedom of thought, conscience, and religion.<sup>63</sup> In particular, Article 9 guarantees a person the freedom “to manifest his religion or belief, in worship, teaching, practice and observance.”<sup>64</sup> However, the right of religious freedom is not absolute; states may impose “such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”<sup>65</sup>

The ECHR held that, under Article 9, a state may place restrictions on the freedom to manifest one’s religion or belief where necessary to ensure the protection of the religious beliefs of all citizens.<sup>66</sup> Moreover, Article 9 “does not always guarantee the right to behave in a manner governed by a religious belief . . . and does not confer on people who do so the right to disregard rules that have proved to be justified.”<sup>67</sup> Therefore, the Turkish ban on headscarves did not violate Article 9. In its decision, the Court deferred to the judgment of Turkish Constitutional Court and state officials as to the alleged threat the headscarf posed to its secular democracy. The Grand Chamber found that the headscarf is a “powerful external symbol” that “appeared to be imposed on women by a religious precept that was hard to reconcile with the principle of gender equality.”<sup>68</sup>

In its analysis, the Grand Chamber implicitly rejected the argument that Şahin, a well-educated woman, chose to cover by her own accord. In a dissent to the Grand Chamber opinion, Judge Tulkens observed that the judgment did not address the argument that Şahin did not cover in order to protest secularism, which Şahin, in fact, supported.<sup>69</sup> Judge Tulkens noted that Şahin testified that she wore the headscarf “of her own free will.”<sup>70</sup> As Judge Tulkens observed, “[n]ot all women who wear the headscarf are fundamentalists and there is nothing to suggest that [Şahin] held fundamentalist views.”<sup>71</sup>

The Grand Chamber also rejected Şahin’s argument that the ban violated her right to education guaranteed by Article 2 of the Convention.<sup>72</sup> While the Court recognized the importance of the right to education, it held

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<sup>63</sup> *Id.* at 179; United Nations Convention for the Protection of Human Rights and Fundamental Freedoms, art. 9, Nov. 4, 1950, 213 U.N.T.S. 221.

<sup>64</sup> United Nations Convention for the Protection of Human Rights and Fundamental Freedoms, *supra* note 63, at art. 9.

<sup>65</sup> *Id.*

<sup>66</sup> *Şahin*, 11 Eur. Ct. H.R. at 202–03.

<sup>67</sup> *Id.* at 208 (citation omitted).

<sup>68</sup> *Id.* at 205 (citation omitted).

<sup>69</sup> *Id.* at 223 (Tulkens, J., dissenting).

<sup>70</sup> *Id.* at 226 (Tulkens, J., dissenting).

<sup>71</sup> *Id.* at 225 (Tulkens, J., dissenting).

<sup>72</sup> *Id.* at 216; Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, *supra* note 63, at art. 2.

that this right is not absolute and is subject to regulation by the State.<sup>73</sup> The Court reasoned that the restriction was foreseeable to those concerned and was enacted through the legitimate aims of protecting the rights and freedoms of others and maintaining public order.<sup>74</sup>

In 2007, the Justice and Development Party (“AKP”), a moderate Islamist political party,<sup>75</sup> won forty-seven percent of the popular vote in national elections.<sup>76</sup> The AKP sought to challenge the headscarf ban, not as a matter of religion but as a violation of basic rights.<sup>77</sup> With its support, in 2008 the Turkish parliament voted to amend the Turkish Constitution to repeal the ban on headscarves.<sup>78</sup> These amendments were immediately challenged by the secularist party (“CHP”). The Turkish Constitutional Court subsequently voted 9-2 that the constitutional amendments ending the ban were unlawful on the grounds that they violated the constitutional principle of secularism.<sup>79</sup>

By conflating the veil with radical Islam, and assuming that women are political or religious pawns, both the ECHR and the Turkish Constitutional Court erase Islamic women as active agents and political participants from the debate.<sup>80</sup> The Grand Chamber in *Şahin* defers to the opinions of the Turkish Constitutional Court and the Republic in conceptualizing Islamic attire as a radical threat to secular democracy.<sup>81</sup> In so doing, the decision does not critically question Turkey’s categorization of political Islam as a fundamentalist and radical movement aiming to destroy democracy.

Both the ECHR and the Turkish Constitutional Court ignore the relationship between the headscarf and the discursive use of women’s bodies by both Turkish secularists and Islamic political parties. Both courts ignore the

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<sup>73</sup> *Şahin*, 11 Eur. Ct. H.R. at 214.

<sup>74</sup> *Id.* at 216.

<sup>75</sup> See Onar, *supra* note 11, at 13–15 (explaining that the AKP “party programme identified the individual rather than the Koran as the basis for being and action, religiosity was to be expressed within a secular framework, and universal human rights . . . as well as women’s rights were extolled”).

<sup>76</sup> Stüral, *supra* note 6, at 574.

<sup>77</sup> Ümit Cizre & Menderes Çinar, *Turkey 2002: Kemalism, Islamism, and Politics in Light of the February 28 Process*, 102 S. ATLANTIC Q. 309, 327 (2003).

<sup>78</sup> *Turkey: Constitutional Court Ruling Upholds Headscarf Ban*, HUMAN RIGHTS WATCH, June 6, 2008, <http://www.unhcr.org/refworld/docid/484cee95c.html>.

<sup>79</sup> *Anayasa Mahkemesi* [Constitutional Court], Jun. 5, 2008, Esas No. 2008/16 [Basis Number], Karar No. 2008/116 [Decision Number] (TC Resmi Gazete [Official Gazette of Republic of Turkey], 2008, No. 27032) (Turk.).

<sup>80</sup> Indeed, *Şahin* illustrates Western essentialization of both Islam and Muslim societies. See Asef Bayat, *The Use and Abuse of “Muslim Societies”*, ISIM NEWSL. (International Institute for the Study of Islam in the Modern World, Leiden, Neth.), Dec. 2003, at 5 (arguing that the West tends to adopt a concept of Islamism and “Muslim societies” that are unitary and totalizing and, as such, deny the diversity of Islamic cultures and particular Muslim communities).

<sup>81</sup> *Şahin*, 11 Eur. Ct. H.R. at 204–05; *Anayasa Mahkemesi* [Constitutional Court], Jun. 5, 2008, Esas No. 2008/16 [Basis Number], Karar No. 2008/116 [Decision Number] (TC Resmi Gazete [Official Gazette of Republic of Turkey], 2008, No. 27032) (Turk.).

multiple meanings of the headscarf, choosing to accept the secularist and Western conceptions of the headscarf as embodying a radical form of Islam that seeks to destroy secularism. Within these decisions, Leyla Şahin and other women who choose to cover are invisible. Neither court analyzes their motives nor the actual effect of their decision to cover. Instead, both courts implicitly accept the claim by secularists and Islamic political parties that a woman's decision to cover has the power to destroy both the Turkish Republic and Islamic society. Rather than treat women who cover as autonomous individuals, both courts implicitly assume that women are pawns of political Islam or subordinated within Islamic patriarchy. At the same time that the courts disregard the real women behind the veil, they also overlook the political motives of the men who use the headscarf as a symbolic tool to gain political power within Turkey and the West.

## II. BEYOND A RIGHTS-BASED ANALYSIS: MASCULINITIES THEORY AND THE HEADSCARF DEBATE

Rather than conceptualize the headscarf debate as an issue of individual rights, masculinities theory offers a methodology to understand veiling as a gendered practice that constructs masculinity, the nation, and global relations of power. Feminists have long recognized that gender, and women's bodies in particular, have been used to demarcate the boundaries of collective identities.<sup>82</sup> Throughout history, veiling has been used to control women's bodies as a means to construct competing national, ethnic, religious, and political identities. As feminist geographer Anna Secor writes, "veiling is an embodied spatial practice through which women are inserted into relations of power in society."<sup>83</sup> Masculinities theory reveals the ways competing masculinities have sought to regulate the practice of veiling to achieve national and political power.

### A. *Masculinities Theory and National Identity*

Masculinities theory examines gender in relation to structures of power—power within the state, the nation, and the world order. According to social scientist R.W. Connell, gender is one means of structuring social practice that necessarily interacts with other social practices such as race, class, nationality, and position within the world order.<sup>84</sup> Like feminist theories, masculinities theory has shifted the focus from individual gender differences to socially constructed gender relations.

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<sup>82</sup> See NIRA YUVAL-DAVIS, *GENDER & NATION* 23 (1997) (discussing role of gender and gender symbols as symbolic border guards for social collectivities).

<sup>83</sup> Secor, *supra* note 11, at 204.

<sup>84</sup> CONNELL, *supra* note 12, at 75.

Masculinities theory provides a complex understanding of the concrete ways in which power is negotiated in society. Masculinities research has focused on the construction of masculinity in particular times and spaces.<sup>85</sup> The methodology has been primarily ethnographic, focusing on the particular processes of construction of masculinity in local sites.<sup>86</sup> Moving beyond ethnographic studies of the local, Michael Kimmel and others have focused on the historical and cultural constructions of masculinity and gender within nations and larger societies.<sup>87</sup> Masculinity theorists have asked critical questions about the gendered nature of political struggle between competing groups of men over national identity and state formation. For example, in his book, *Changing Men in Southern Africa*, Robert Morrell explores the competing masculinities of Zulu and Afrikaaner men during the struggle against apartheid in South Africa.<sup>88</sup> His volume juxtaposes a study of Zulu nationalism by Thembisa Waetjen and Gerhard Maré<sup>89</sup> with a study by Kobus du Pisani of the transformation of Afrikaaner masculinities during and after apartheid.<sup>90</sup> These studies explore the relationship between gender and nationalism, specifically focusing on how gender and masculinity have been employed to construct and resist racialized power.

In a recent piece, Connell argues that masculinities theory must begin to focus on the relationship between local constructions of masculinity and the broader geopolitical order.<sup>91</sup> As Connell explains, “masculinities and femininities are produced together in the process that constitutes a gender order.”<sup>92</sup> Building on the notion that institutions, including the workplace and the state, are gendered, Connell argues that international relations, trade, and markets are “inherently . . . area[s] of gender politics.”<sup>93</sup> Connell concludes that a world gender order exists, defined as the structure of relation-

<sup>85</sup> See Connell, *supra* note 13, at 71.

<sup>86</sup> *Id.*

<sup>87</sup> See generally MICHAEL KIMMEL, *MANHOOD IN AMERICA* (1996); MRINALINI SINHA, *COLONIAL MASCULINITY: THE ‘MANLY ENGLISHMAN’ AND THE ‘EFFEMINATE BENGALI’ IN THE LATE NINETEENTH CENTURY* (1995) (arguing that the images of the “manly Englishman” and the “effeminate Bengali” were employed to uphold colonial privilege and contain resistance); Thokozani Xaba, *Masculinity and Its Malcontents: The Confrontation Between “Struggle Masculinity” and “Post-Struggle Masculinity” (1990–1997)*, in *CHANGING MEN IN SOUTHERN AFRICA* 105, 107–19 (Robert Morrell ed., 2001) (arguing that the armed struggle by resistance fighters against apartheid produced a generation of men who were used to violence and lacked formal education and work experience, producing a particular form of masculinity in South Africa).

<sup>88</sup> Xaba, *supra* note 87, at 107–19.

<sup>89</sup> Thembisa Waetjen & Gerhard Maré, ‘Men amongst Men’: *Masculinity and Zulu Nationalism in the 1980s*, in *CHANGING MEN IN SOUTHERN AFRICA*, *supra* note 87, at 195.

<sup>90</sup> Kobus du Pisani, *Puritanism Transformed: Afrikaner Masculinities in the Apartheid and Post-Apartheid Period*, in *CHANGING MEN IN SOUTHERN AFRICA*, *supra* note 87, at 157.

<sup>91</sup> R.W. Connell, *Globalization, Imperialism, and Masculinities*, *supra* note 85, at 71–72.

<sup>92</sup> *Id.* at 72.

<sup>93</sup> *Id.*

ships that interconnect the gender regimes of institutions, and the gender orders of local societies, on a world scale.<sup>94</sup>

To understand this gender order, Connell argues one must consider the historical relationship between imperialism, colonialism, and globalization on the one hand, and local societies on the other.<sup>95</sup> Noting that the discussion of masculinities in the transnational arena is rare, Connell offers an analysis of the development of so-called “globalizing masculinities” through colonization, the transition to postcolonial regimes, and globalization.<sup>96</sup> He argues that each stage of this development affected gender relations at the local or national level, often leading to the reconstruction of local masculinities in ways that significantly affect women’s position within the gender order.<sup>97</sup>

Joane Nagel’s work on masculinities and the nation exemplifies this approach. Nagel argues that masculinity is a powerful hegemonic force in nationalism, defined as “a goal (to achieve statehood) and a belief (in a collective commonality).”<sup>98</sup> Nagel’s analysis draws upon the work of Cynthia Enloe, one of the first feminists to consider the relationship between masculinity and nationhood.<sup>99</sup> Enloe wrote about the gendered nature of nationalism in *Bananas, Beaches and Bases*, claiming that “nationalism typically has sprung from masculinized memory, masculinized humiliation and masculinized hope.”<sup>100</sup> While men have served as the actors defending their freedom, honor, or nation, women have typically served as largely passive, symbolic icons of nationhood.<sup>101</sup> Women’s purity thus becomes identified with national honor—“women’s shame is the family’s shame, the nation’s shame, the man’s shame.”<sup>102</sup>

Turkish scholar Alev Çinar similarly argues that hegemonic masculinity regulates the female body, and through its regulation, constructs itself as dominant and powerful.<sup>103</sup> By regulating the bodies of women, this dominant or hegemonic masculinity simultaneously “legitimizes its power and authority to intervene with regard to bodies, construct the national subject, and dictate the boundaries of the public and the private spheres.”<sup>104</sup> In this way, the female body symbolizes the nation and women become its “symbolic border guards.”<sup>105</sup>

<sup>94</sup> *Id.*

<sup>95</sup> *Id.* at 72–73.

<sup>96</sup> *Id.* at 74–81.

<sup>97</sup> *Id.*

<sup>98</sup> Joane Nagel, *Nation*, in HANDBOOK OF STUDIES ON MEN & MASCULINITIES, *supra* note 13, at 397, 400.

<sup>99</sup> See CYNTHIA ENLOE, BANANAS, BEACHES AND BASES: MAKING FEMINIST SENSE OF INTERNATIONAL POLITICS (1990).

<sup>100</sup> *Id.* at 45.

<sup>101</sup> See Nagel, *supra* note 98, at 405.

<sup>102</sup> *Id.*

<sup>103</sup> ÇINAR, *supra* note 11, at 58–59.

<sup>104</sup> *Id.* at 59.

<sup>105</sup> *Id.* at 60.

While recognizing that women's role in constructing national identities is often symbolic, Anthias and Yuval-Davis identify a broader range of ways in which women have tended to participate in ethnic, national, and state processes and practices.<sup>106</sup> Specifically, women act:

(a) as biological producers of members of ethnic collectivities; (b) as reproducers of the [normative] boundaries of ethnic/national groups [by enacting proper feminine behavior]; (c) as participating centrally in the ideological reproduction of the collectivity and as transmitters of its culture; (d) as signifiers of ethnic/national differences . . . [and] (e) as participants in national, economic, political, and military struggles.<sup>107</sup>

Exploring the relationship between gender, masculinity, and the state helps illuminate the specific means through which hegemonic masculinity and political power are constructed and preserved. This approach is particularly useful in analyzing the role of women and gender in situations of conflict, where women's bodies serve as guardians of collective, and contested, identity.<sup>108</sup> Combined, masculinities theory and feminist theory contribute to a more complex understanding of the institutionalized structures of power that construct gender relations between men and women at the local, national, and global levels.

### B. *Masculinities and the Headscarf Debate in Turkey*

As Nagel argues, the "politicization of women's bodies and the politics of the veil in Islamic societies" are examples of the assertion of masculinity and "nationhood through the control over women's bodies."<sup>109</sup> Within Turkey, both hegemonic masculinities and Islamic masculinities of resistance have used the female body and the headscarf debate to construct and embody competing national and political identities. Women, however, have been active participants in the veiling debate.

The Islamic headscarf historically has been used to embody both Islam and Turkish secularism. In pre-Republic Turkey, the Ottoman Empire, relying on Islamic law, regulated women's veiling and attire, as well as their presence in the public sphere.<sup>110</sup> The Ottoman Empire required women to veil beginning in the sixteenth century.<sup>111</sup> As a social practice, Islamic veiling constructs gender relations within the community. According to Göle,

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<sup>106</sup> Nira Yuval-Davis & Floya Anthias, *Introduction* to *WOMAN – NATION – STATE* 1, 6–14 (Nira Yuval-Davis & Floya Anthias, eds., 1989).

<sup>107</sup> *Id.* at 7.

<sup>108</sup> See Robina Mohammad, *Negotiating Spaces of the Home, Education System, and the Labor Market*, in *GEOGRAPHIES OF MUSLIM WOMEN: GENDER, RELIGION, AND SPACE* 178, 182–83 (Ghazi-Walid Falah & Caroline Nagel, eds., 2005).

<sup>109</sup> See Nagel, *supra* note 98, at 405.

<sup>110</sup> GÖLE, *supra* note 11, at 72.

<sup>111</sup> Sandıkcı & Ger, *supra* note 18.

veiling fulfills three purposes that serve Islam: (1) it conceals women from the gaze of men; (2) it sets boundaries between men and women; and (3) it demarcates the “forbidden sphere,” which is to remain private.<sup>112</sup> Göle argues that Islamic clothing rules are based on the differentiation and segregation of the sexes: “veiling represents hidden femininity, the beard represents a man’s masculinity.”<sup>113</sup> These rules in turn construct and preserve the segregation of the sexes as well as the separation of the private world, or *mahrem*, and the public sphere.<sup>114</sup>

As Göle explains, “[t]he Islamic social order measures its integrity by the honor of its women, which requires, in turn, the untouchability as well as invisibility of women.”<sup>115</sup> The social system thus exercises control over women’s sexuality and segregation of the sexes, both of which are fundamental aspects of Islamic masculinities in Turkey. Within this social order, veiling maintains the boundaries of separation between the sexes and preserves order in the community.<sup>116</sup>

While Muslim societies such as the Ottoman Empire used the veil to construct gender relations, Western colonial and imperialist powers seized upon the veil to symbolize Islam and Muslims as inherently different, backward, and inferior.<sup>117</sup> Colonialism began to construct the narrative of the veil as a means of oppression of women, a practice that the West decried as symbolizing the barbarism and backwardness of Muslim societies.<sup>118</sup> As women’s studies and religion scholar Leila Ahmed explains, “the peculiar practices of Islam with respect to women had always formed part of the Western narrative of the quintessential otherness and inferiority of Islam.”<sup>119</sup>

Colonialists seized upon the veil as the “most visible marker of the differentness and inferiority of Islamic societies,” a symbol of both the degradation of Islamic women and the backwardness of Islamic men.<sup>120</sup> This Western interpretation of gender relations between Islamic men and women constructed Muslim men as barbaric oppressors of women, inherently inferior to Western men.<sup>121</sup> At the same time, colonial hegemonic masculinity constructed itself as the savior of Islamic women, the enlightened and pow-

<sup>112</sup> GÖLE, *supra* note 11, at 94.

<sup>113</sup> *Id.* at 93.

<sup>114</sup> *Id.* at 94.

<sup>115</sup> *Id.* at 72–73.

<sup>116</sup> GÖLE, *supra* note 11, at 93. A Turkish student who covers explained, for example:

People in the West manifest their sexuality in an enlarged dimension through embellishing themselves, but this in fact impoverishes sexuality. We do the opposite of what they do at all possible levels, and we confine sexuality to certain spheres as much as we can. That is, we try to take sexuality away from attention in the outside life, the streets, and in the public realm.

*Id.*

<sup>117</sup> LEILA AHMED, *WOMEN AND GENDER IN ISLAM* 151–53 (1992).

<sup>118</sup> *Id.*

<sup>119</sup> *Id.* at 149.

<sup>120</sup> *Id.* at 152.

<sup>121</sup> *Id.* at 153.

erful rescuer of the female victims of the culturally and racially inferior Islamic men. Western masculinity thus justified its economic and political domination of Muslim societies through the veil, which symbolized the inferiority and inherent “Otherness” of Islam.<sup>122</sup>

Shahim Gerami, a masculinities theorist, argues that the colonialist narratives represented a Western hegemonic masculinity that is “white, Christian, heterosexual and dominant.”<sup>123</sup> This hegemonic masculinity was manifested in the physical and political domination over colonized “Others,” including Muslim societies and communities. Gerami argues that Western colonial masculinities profoundly threatened the honor and power of local Muslim masculinities.<sup>124</sup> As Gerami observes:

In Muslim societies, as in many other colonized cultures, the colonial domination raised serious challenges to the local masculinities across the region. Men’s honor was threatened, and they were called upon to protect it. This catapulted women’s veil to the national and political scene as the symbol of men’s honor. No longer was women’s honor particular to a clan, a tribe, or a man; it became symbolic of the national honor.<sup>125</sup>

While Turkey was not a part of the colonial world, secularists and Islamists in Turkey have similarly used the female body and the headscarf to construct and embody competing national and political identities. The new Turkish Republic sought to distance itself from the Ottoman state. As Nora Onar explains, “Turkey’s founding fathers adopted the prevailing European Orientalist view that Islam had been a source of Ottoman decline. . . . [and] they sought to manoeuvre religion out of public life.”<sup>126</sup> Atatürk sought to transform Turkey, both politically and culturally, in order to eliminate stereotypes of Turks as “backward” and “uncivilized.”<sup>127</sup> He replaced the Ottoman Empire’s *Shari’a* family code with the Swiss family code, which banned polygamy and gave women equal rights to divorce and custody.<sup>128</sup> Women were granted political rights, which subverted the traditional Ottoman and Islamist gender order.<sup>129</sup>

Atatürk sought to replace the face of Islam with the public faces of women who were modern and Western.<sup>130</sup> The uncovering of women through the elimination of the headscarf was a critical component of the

<sup>122</sup> *Id.* at 165.

<sup>123</sup> Shahin Gerami, *Islamist Masculinity and Muslim Masculinities*, in *HANDBOOK OF STUDIES ON MEN & MASCULINITIES*, *supra* note 13, at 448, 449.

<sup>124</sup> *Id.* at 450.

<sup>125</sup> *Id.*

<sup>126</sup> Onar, *supra* note 11, at 10–11.

<sup>127</sup> *Id.* at 11.

<sup>128</sup> AHMED, *supra* note 117, at 168.

<sup>129</sup> Onar, *supra* note 11, at 10–11.

<sup>130</sup> AHMED, *supra* note 117, at 164.

secularization and Westernization of Turkey.<sup>131</sup> Adopting Western and Orientalist criticisms of the veil as barbaric and backwards, Atatürk implored men to renounce the face veil or *niqab*:

In some places I have seen women who put a piece of cloth or a towel or something like it over their faces . . . when a man passes by. What is the meaning and sense of this behavior? Gentlemen, can the mothers and daughters of a civilised [sic] nation adopt this strange manner, this barbarous posture? It is a spectacle that makes the nation an object of ridicule. It must be remedied at once.<sup>132</sup>

Under the direction of Atatürk, the new Republic launched a public relations campaign to unveil women. Photographs of women lounging by the sea wearing Western bathing suits were circulated.<sup>133</sup> Turkey conducted its first national beauty pageant in 1929, accompanied by calls from secularist elites for women to show that they met European standards of beauty.<sup>134</sup> Women were urged to participate in pageants, showing off their bodies as part of their “national duty” so that Turkey could be represented at international competitions.<sup>135</sup> Çinar argues that the unveiling of Muslim women “reset the boundaries of the public and the private, which in turn served the creation and institutionalization of a sense of secular, modern nationhood.”<sup>136</sup>

The movement to unveil women was part of the Kemalist campaign to create the “Ideal Woman,” no longer oppressed by Ottoman-Islamic rule, but modern, emancipated, and fully visible in the public sphere as citizens.<sup>137</sup> Atatürk adopted various reforms that concretely improved women’s position in Turkey. These reforms helped transform the lives of urban elite women, replacing Islamic traditional and hierarchical gender relations with Western civil law.<sup>138</sup> While women in urban areas began to adopt Westernized clothing,<sup>139</sup> the headscarf did not disappear from Turkish society.

In response to Atatürk’s efforts, conservative Islamist political parties seized upon the headscarf to construct an identity of resistance, similarly using the bodies of Turkish women as an embodied symbol.<sup>140</sup> As Çinar argues, “[w]hereas during its founding years the new state instituted its sec-

<sup>131</sup> ÇINAR, *supra* note 11, at 59–60, 66.

<sup>132</sup> AHMED, *supra* note 117, at 164 (quoting Atatürk).

<sup>133</sup> ÇINAR, *supra* note 11, at 63–64.

<sup>134</sup> *Id.* at 70–71.

<sup>135</sup> *Id.* at 71.

<sup>136</sup> *Id.* at 63.

<sup>137</sup> See GÖLE, *supra* note 11, at 73 (“It is clear that Kemalism encouraged physical changes (removal of the veil and *charshaf*), urban and public exposure (companionship of men and women in the same space), visibility of women, as well as the recognition of their citizenship rights. . . .”).

<sup>138</sup> See GÖLE, *supra* note 11, at 76; Onar, *supra* note 11, at 11.

<sup>139</sup> Arat, *supra* note 11, at 36.

<sup>140</sup> ÇINAR, *supra* note 11, at 74.

ularism through the unveiling of the female body, the Islamist elite of the 1990s instituted their Islamism by revealing the female body, similarly using the body and its clothing as site from which their nationalist project was articulated.<sup>141</sup> The Islamists, including the conservative Refah Party, used the revealing of women to argue that women were liberating themselves from the oppressive secular state.<sup>142</sup> The Refah Party “designat[ed] the Islamic headscarf as the banner of their political campaign.”<sup>143</sup> Since then, the headscarf has become a symbol of political Islam in Turkey. As Göle observes, political Islam has made itself visible through the veiling of women, who serve as “the emblem of politicized Islam.”<sup>144</sup>

While the Refah Party ultimately was closed by the Turkish Constitutional Court, the issue of the headscarf as a political symbol continues. The AKP, while committed to secularism, has embraced the headscarf as a political issue, framing it within a human rights discourse that focuses on the rights of women to religious freedom.<sup>145</sup> In response, secularists have continued to portray the headscarf as the embodiment of radical and political Islam, committed to the establishment of an Islamic state and the elimination of Turkish secularism.<sup>146</sup>

### III. TURKISH WOMEN AND COVERING: NEGOTIATING COMPETING MASCULINITIES

While masculinities theory has focused primarily on relationships among men, it is critical to consider the role of women within its analysis of the social practice of gender. While secular and Islamic masculinities and political parties have used women’s bodies to construct competing claims for national identity and power, women also have been active participants in this debate. The headscarf issue has divided feminists, with “Islamist feminists” and some secular feminists arguing that women have the right to religious freedom and individual choice, and many (but not all) secular feminists arguing that the revealing of women is part of a strategy to replace civil law with *Shari’a* and to require the total covering of women as part of a repudiation of liberal values.<sup>147</sup>

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<sup>141</sup> *Id.*

<sup>142</sup> *Id.* at 74.

<sup>143</sup> *Id.*

<sup>144</sup> GÖLE, *supra* note 11, at 83.

<sup>145</sup> ÇINAR, *supra* note 11, at 174.

<sup>146</sup> *Id.* at 173.

<sup>147</sup> Onar, *supra* note 11, at 16 (explaining that some Islamist and post-modern feminists have argued against the ban while other (both liberal and less liberal) feminists argue in favor of it); Yeşim Arat, *From Emancipation to Liberation: The Changing Role of Women in Turkey’s Public Realm*, 54 J. INT’L AFF. 107, 120 (2000) (“The relationship of secular feminists to Islamist women with headscarves varied. While Kemalist feminists opposed the women with headscarves as threat to the secular foundations of the Republic, some groups of secular feminists supported Islamist women’s right to wear them.”).

Western media has largely interpreted Islamic veiling as a symbol of the forced subordination of women who have no choice but to cover.<sup>148</sup> This interpretation, shared by some feminists, has been deployed by France and other Western nations to justify various bans on veiling over the past ten years.<sup>149</sup> The Western or liberal assumption that women who veil lack free choice, however, is disputed by many feminists and scholars in Turkey and throughout the Middle East. Many Turkish feminist scholars and sociologists have concluded that the decision of the young university women to cover reflects a deliberate choice—a choice to embrace political Islam, to express their religious identity, and/or to challenge the secularist ban of religion in the public sphere.<sup>150</sup> Some Western scholars, including some feminists and critical race scholars, have also challenged this assumption by de-essentializing the women who choose to cover, conducting interviews, and studying empirically their decision and practice.<sup>151</sup>

Many of the young women who chose to wear the *türban* in the 1980s were reveiling; that is, they chose to cover even though their mothers or grandmothers did not.<sup>152</sup> Like Leyla Şahin, these were largely young, urban women.<sup>153</sup> Typically, their mothers or grandmothers wore either the simple *başörtüsü* or did not cover.<sup>154</sup> In *The Forbidden Modern*, Göle interviews a diverse range of young women who have chosen to cover. Through her interviews, she concludes that many of the young, urban, and university women who cover do so “by their free will.”<sup>155</sup> Many of these women base their choice upon their interpretation of Islam, learned through religious study, and reject the traditional understanding of Islam held by their par-

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<sup>148</sup> See, e.g., Katherine Bullock, *Challenging Media Representations of the Veil: Contemporary Muslim Women's Re-Veiling Movement*, 17 AM. J. ISLAMIC SOC. SCI. 22, 22 (2000) (“[the] popular western media image of the ‘veil’ as a symbol of Muslim women’s oppression[,] . . . gained full force during the colonial period as part of a discourse about the inferior status of women in Islam.”).

<sup>149</sup> See, e.g., JOAN WALLACH SCOTT, *THE POLITICS OF THE VEIL* 2–4 (2007) (discussing European opposition to Muslim veiling in France and elsewhere).

<sup>150</sup> See, e.g., Arat, *supra* note 147, at 119–20; ÇINAR, *supra* note 11, at 81–83; GÖLE, *supra* note 11, at 92; Sandikci & Ger, *supra* note 18, at 6–7 (discussing the reasons “why and how a young, urban, and educated middle-class woman would decide to cover, by her own volition, despite stigmatization and socialization” and how covering styles “changed so much and became more fashionable, popular, and ordinary”).

<sup>151</sup> Adrien Katherine Wing and Monica Nigh Smith, for example, have argued that the debate on the French headscarf ban has been heard through men’s voices and that critical race feminism, through its focus on anti-essentialism, could “provide a perspective to lift the veil of ignorance and misunderstanding concerning this recent French law and its effect on young Muslim women.” Adrien Katherine Wing & Monica Nigh Smith, *Critical Race Feminism Lifts the Veil?: Muslim Women, France, and the Headscarf Ban*, 39 U.C. DAVIS L. REV. 743, 747–50, 758–74 (2006). Wing employed the “world-traveling” approach advocated by Isabelle Gunning and interviewed young French Muslim women on both sides of the debate and reported the reasons that each side gave for their position. *Id.* at 749.

<sup>152</sup> Bullock, *supra* note 148, at 23.

<sup>153</sup> Secor, *supra* note 11, at 207.

<sup>154</sup> *Id.*

<sup>155</sup> GÖLE, *supra* note 11, at 90–91.

ents.<sup>156</sup> Many (though not all) of these women have embraced *tessetur* as a political symbol and a rejection of secularist political parties in Turkey.<sup>157</sup> Göle argues that “[t]he contemporary actors of Islamism are university students, future intellectuals, and professionals, not marginal, uneducated, frustrated groups.”<sup>158</sup> It is university women, she argues, that veil “as a political statement.”<sup>159</sup> She explains:

The phenomenon of Islam, on the one hand, geographically moved into urban settlements and, on the other, penetrated the central power apparatus where modern cultural values and symbols are created. Veiled women are not simply passive conveyors of the provincial traditional culture; they are, rather, active and self-asserting women who seek opportunities in modernism. They have come into the public scene not at the periphery, where traditions prevail, but in the urban settlements and the universities, where modernism flourishes. In this context veiling symbolizes radical Islamism, which is molded on the tension between traditionalism and modernism.<sup>160</sup>

While Şahin portrays the university women who chose to reveal as under the influence of radical Islamist men, Turkish scholar Yeşim Arat observes that many women were part of the Islamist movement and that their decision to cover their heads in universities was an act that required “courage and faith in oneself.”<sup>161</sup> Ironically, covering made these women more visible. As Arat explains:

In a polity where religion had traditionally been controlled by the state in the name of secularism, they stood for a criticism of this secular order. Independent of what their private individual reasons for covering the head might have been, they had to assume the responsibility for what they meant in this particular situation. As such, even though they might have acted in solidarity with members of their religious community, they were engaged in an act of individuation and political resistance as they confronted the gaze of the uncovered women who thought of them as different.<sup>162</sup>

By the late 1990s, a variety of styles of covering emerged, featuring tighter, more form-fitting jackets and stylish raincoats that skim the body rather than hide it completely, smaller and beautifully colored headscarves, and fabrics in a range of beautiful colors, often stylishly coordinated so that

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<sup>156</sup> *Id.*

<sup>157</sup> Sandikci & Ger, *supra* note 18.

<sup>158</sup> GÖLE, *supra* note 11, at 96.

<sup>159</sup> *Id.* at 95.

<sup>160</sup> *Id.* at 92.

<sup>161</sup> Arat, *supra* note 51, at 123.

<sup>162</sup> *Id.*

the entire outfit matches.<sup>163</sup> Contrary to Western media images of monotonously cloaked women, women who cover mingle freely with uncovered women, symbolizing the acceptance of choice with respect to covering.



What is the meaning of the development of these newer styles of covering? In classical Islam, the purpose of the veil is to preserve modesty and to avoid drawing attention to the female body. Yet in Turkey, the new form of urban covering is beautiful and self-consciously stylish.<sup>164</sup> Covering has become a profitable part of the fashion consumer market in Turkey and has spread throughout the world via the Internet and global retail markets.<sup>165</sup> It is international and fashion-forward. A Turkish fashion show featuring the various ways of covering can be found on YouTube.<sup>166</sup> In this show, tall and lean women in high heels and narrow overcoats and tunics walk down the catwalk to distinctively modern, synthesized Middle Eastern club music. The headscarves depicted are close-fitting and draped over conical head-pieces on the top of the head, evoking Orientalist notions of the hidden and the exotic, Islamic dress meeting global capitalist consumerism.

Çinar describes this aesthetic—which was opposed by Islamic intellectuals as transforming the headscarf from a symbol of religious and political identity to symbol of high fashion in upper class society—as “Islamic haute

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<sup>163</sup> *Id.*

<sup>164</sup> Sandikci & Ger, *supra* note 18 (discussing the desire of many covered women in Turkey to show off their beauty).

<sup>165</sup> *Id.*

<sup>166</sup> Video: YouTube.com, Turkish Hijab Catwalk 3 (2006), <http://www.youtube.com/watch?v=0STp3VuVM6o> (last visited Mar. 13, 2010).

couture.”<sup>167</sup> The emergence of an “Islamic high culture,” Çinar argues, destroys the secularist image of Islam as backward and lower class while highlighting class and regional collective identities in Turkey.<sup>168</sup> Those women who adopt the more fashionable forms of cover distinguish themselves from the more traditional, rural, or low-income women who wear either the simple headscarf or the outdated long, light-colored raincoat.<sup>169</sup>

The new veiling by young, educated Turkish women appears to reflect the negotiation of their multiple identities as both Islamic and modern, political agents, religious women, and secular consumers in a globalized society.<sup>170</sup> The politicization of young, educated, and outspoken Turkish women who challenge the regulation of their bodies in the body politic disrupts the dominant and secular masculinity of the Turkish Republic as well as local Islamic masculinities. As Göle explains, “[t]he new public visibility of Muslim women, who are outspoken, militant, and educated, brings about a shift in the semiotics of veiling, which has long evoked the traditional, subservient domestic roles of Muslim women.”<sup>171</sup>

These women disrupt the narratives of Western and secular masculinities that construct the veil as a symbol of women’s degradation by Islamic men. Through their choice to reveal, Leyla Şahin and other young, educated women rejected the role of female victim that has been used to demonize Islamic men and rationalize the compulsory de veiling of women by the secular state.<sup>172</sup> Yet by mobilizing within the political sphere to wear the headscarf, these young women also challenge the Islamic masculinities that relegate women to a hidden and private sphere through their gendered construction of the *mahrem*.<sup>173</sup> Within this context, the act of covering becomes not merely a religious practice or duty, but an individuation of women, many

<sup>167</sup> ÇINAR, *supra* note 11, at 89–90.

<sup>168</sup> *Id.*

<sup>169</sup> Sandikci & Ger, *supra* note 18.

<sup>170</sup> See, e.g., *id.* at 128–30; Secor, *supra* note 11, at 208–10.

<sup>171</sup> GÖLE, *supra* note 11, at 21.

<sup>172</sup> Şahin, 11 Eur. Ct. H.R. at 226 (Tulkens, J., dissenting).

<sup>173</sup> Göle explains that:

Woman’s participation in Islamism has had unintended consequences; a latent individuation of women is at work. Women, once empowered by their public and professional visibility, continue to follow and develop personal life strategies. At the same time, while never forgetting the primacy of their identities as mothers and wives, women confront and criticize the Islamist ideology. The exit from the *mahrem* . . . sphere forces women to question traditional gender identities and male definitions of “licit” and “illicit” behavior, thereby unveiling relations of power between Islamist men and women. Criticizing the “pseudoprotectionism” of Muslim men, veiled women claim their right to “acquire personality”—that is, “a life of their own”—and, consequently, provoke disorder in Islamic gender definitions and identities.

GÖLE, *supra* note 11, at 22.

of whom, as Göle argues, unveil and challenge traditional gender identities within Islam and the body politic.<sup>174</sup>

#### CONCLUSION

In Turkey and elsewhere, the veil has become a highly contested—and gendered—political symbol. While feminist and critical race theorists have focused on the decision of individual women to cover, the veil is not merely a religious practice or individual choice. Scholarship that discusses the multiple reasons that Muslim women cover is a useful first step in analyzing state regulation of veiling; it reveals the diversity among Muslim women and emphasizes that for many women, the decision to cover is an autonomous choice. But covering is not merely an individual choice; it is a religious and social practice that constructs various collective identities within a particular location at a particular time.

Masculinities theory examines how power is negotiated by and between competing masculinities—at the local, national, and transnational levels. By applying masculinities theory, the role of the headscarf in constructing the Turkish nation and the relationship of the headscarf to the historical struggle between the West and Islam become visible. Through the ban, the secularist state regulates the presence of women in the public sphere, banning women who cover from attending or teaching in universities or working in government offices. Both secularists and Islamist political parties have used the veil, and the regulation of women's bodies, to embody competing notions of the state and national identity. This local struggle for a hegemonic masculinity constructs local gender relations, yet it is also part of the historical and contemporary struggle between the West and Islam.

Examining the relationship between masculinities and the state enriches our understanding of the state as a gendered institution, illuminating the reciprocal relationship between the construction of the state and gender relations. It is important, however, that women remain a necessary and critical focus of masculinities analysis and that masculinities theory incorporates women more explicitly in its analysis of gender. Masculinities theorists conceptualize gender as a social practice, one that is constructed by and between men and women and within institutions. The relationship between men and women, therefore, is reciprocal. As can be seen in Turkey, the young Islamic university women who organized politically to challenge the headscarf ban—the Leyla Şahins of the 1980s and 1990s—refused to conform to the gendered expectations of either the secularists or the Islamists. Today, many young women continue to incorporate their own version of *tessetür*, negotiating their religious beliefs with their sense of themselves as women in the public, and global, sphere. As Turkish scholars like Nora Onar have sug-

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<sup>174</sup> *Id.*

gested, these women have participated in the construction of a rights-based discourse that may have important implications for Turkish secularism, even though it remains an open question as to what extent the semiotics of veiling align with the process of women's emancipation.

