

# Module 7: Body Politics

7a Hijab 101

7b Multiple Meanings & Images of the Hijab

**7c Belonging & Banishment – Quebec’s Bill 94**

7d Educator’s Guide to 7c (pdf)

| Being a Canadian Muslim Woman in the 21<sup>st</sup> Century

# introduction

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This presentation gives a case study of Quebec's Bill 94. It also discusses specific related events and issues, such as the banning of the hijab on Quebec soccer fields, and bans in other parts of the world. The presentation also relates some of the issues to the Canadian Charter of Rights and Freedoms.

Note: As of October 20, 2010, Bill 94 had not yet been passed into law.

# niqab

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- The Niqab, also known as a face veil, is worn by some Muslim women. While Muslims themselves do not agree on the necessity of wearing the niqab, some women wear it as a sign of personal modesty and religiosity.



<http://www.iengage.org.uk/component/content/article/1-news/1016-french-senate-approves-ban-on-niqab>

# bill 94

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- On March 24, 2010, Quebec's Justice Minister Kathleen Weil tabled a bill ([Bill 94](#)) that would ban women in niqabs from working in the public sector or receiving public services. These women would have to uncover their faces in order to have their rights reinstated.



<http://www.iengage.org.uk/component/content/article/1-news/1016-french-senate-approves-ban-on-niqab>

# premier Charest's response

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- Speaking in support of Bill 94, Premier Charest explained that the legislation would bring “balance” between the values of Quebec society and individual freedoms. Moreover, he stressed that the legislation would ensure a just balance between men and women while preserving secular public institutions.



<http://www.ledevoir.com/societe/justice/244496/poursuites-abusives-la-loi-quebecoise-s-etendra-aux-causes-pendantes>

[Click here to read more on Premier Charest's comments](#)

# controversy in a french language class

- In early 2010, Naema Ahmed was expelled from a government-sponsored French language class for new immigrants for refusing to remove her niqab. The school defended its decision by explaining that it was difficult to instruct Naema without seeing her mouth. Naema argued that she had been discriminated against, because the issue was raised 6 months after she began classes.



<http://oncampus.macleans.ca/education/2010/03/24/tempest-in-a-niqab/>

# reasonable accommodation

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- The debate on the niqab in Quebec comes after the [Bouchard-Taylor Report](#) (2008) on “reasonable accommodation.” That report addressed questions of religious and cultural accommodation in public institutions.
- Reasonable accommodation refers to changes or modifications in a system that are required to create fairness for an individual based on a proven need. Each country has its own system of reasonable accommodations that pertain to religious, academic, or employment related needs and conditions and these are often mandated by law.

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# reasonable accommodation

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- In Canada, the obligation to provide reasonable accommodation is enshrined in federal and provincial human rights statutes as well as judicially interpreted into the general non-discrimination clause of the Canadian Charter of Rights and Freedoms (paragraph 15).
- According to the Canadian Supreme Court: “The principle that discrimination can accrue from a failure to take positive steps to ensure that disadvantaged groups benefit equally from services offered to the general public is widely accepted in the human rights field. It is also a cornerstone of human rights jurisprudence that the duty to take positive action to ensure that members of disadvantaged groups benefit equally from services offered to the general public is subject to the principle of reasonable accommodation...Reasonable accommodation, in this context, is generally equivalent to the concept of ‘reasonable limits’ (Eldridge v. British Columbia (Attorney General) [1997] 3 S.C.R.624).”
- The limits to the duty to accommodate are described alternately as either “reasonable” accommodation or accommodation to the point of “undue hardship,” depending on the respective legislative requirements at the federal and provincial levels.

Source: <http://www.un.org/esa/socdev/enable/rights/ahc7bkgndra.htm>



# responses to bill 94

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- Bill 94 sparked debate across the country. Like most issues, the niqab debate was complex. Not all Muslims agree that the niqab is a part of the faith and its legitimacy is widely contested by many Muslim scholars. Despite these disagreements, many Muslim organizations opposed the legislation on human rights grounds. This position was also supported outside the Muslim community by broad coalitions that challenged the government's right to determine how women should dress.
- The Canadian Council of Muslim Women (CCMW) spoke against Bill 94. Though they did not support the practice of wearing the niqab, they strongly opposed the decision to deny some women their rights based on a choice of clothing.
- However, the Muslim Canadian Congress spoke in favour of Bill 94. They argued that the niqab had no place in a secular society and it made women oppressed. This sentiment was challenged by Muslims and non-Muslims alike, many of whom argued that violating the rights of a woman to wear a niqab was a challenge to her freedom of religious expression.

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# responses to bill 94

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Additional Sources:

CCMW's Brief to the National Assembly of Quebec on Bill 94

[http://www.ccmw.com/documents/Bill94\\_Brief%20from%20CCMW-May\\_7\\_2010-2.pdf](http://www.ccmw.com/documents/Bill94_Brief%20from%20CCMW-May_7_2010-2.pdf)

Muslim Canadian Congress's statement on the niqab

<http://www.muslimcanadiancongress.org/20061108.html>

Simone de Beauvoir Institute's statement on Bill 94

<http://nonbill94.wordpress.com/2010/04/05/hello-world/>

Statement by Non/No to Bill 94 Coalition

<http://nonbill94.wordpress.com/2010/04/05/hello-world/>

# the media on bill 94

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- The debate about Bill 94 was covered extensively by Canadian news outlets, including the [CBC](#) and [CTV](#). Print, radio and cable companies broadcast the issue from coast to coast.

# woman asked to remove her niqab while testifying

- In 2007 a 32 year old Muslim woman reported to police that she had been repeatedly sexually abused by two family members while she was between the ages of 6 and 10. During the preliminary hearing the judge ordered her to remove her niqab, based on a request from the lawyer for one of the two defendants who argued that there is a longstanding right to assess the demeanour and mannerisms of witnesses when they testify, which would be compromised by the wearing of the niqab (Kari, 2010). The woman appealed the ruling and the Ontario Court of Appeal eventually ruled that the woman did not have to remove her niqab while testifying as long as the fairness of the trial is not compromised.

Source:

<http://www.nationalpost.com/news/Ontario+court+rule+woman+wear+niqab+while+testifying/3660629/story.html>



<http://www.globaltoronto.com/Ontario+court+rule+whether+woman+testify+wearing+niqab/3663808/story.html>

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# woman asked to remove her niqab while testifying

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Several notable organizations have stated their opinion of the case

- Ontario Human Rights Commission (OHR) and the Women’s Legal Education Action Fund (LEAF) supported the women’s right to testify while wearing the niqab, arguing that “women should not have to relive being forcibly uncovered” (Kari 2010). Lawyer Susan Chapman of LEAF suggests that forcing a woman to remove her niqab will deter other niqab-wearing women from using the justice system (cbc, 2010)
- Muslim Canadian Congress supported the defendants and their lawyers argument by telling the court that wearing the niqab is a political statement and the issue is not about religious freedom (Kari, 2010)
- Salam Elmenyawawi, president of the Muslim Council of Montreal (MCM) stated, “To outright ban the wearing of the niqab would have allowed for the legalization of discrimination and disadvantaged certain individuals due to their personal and religious beliefs.” (Muslim Observer 2010)

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# woman asked to remove her niqab while testifying

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- Alia Hogben, executive director of the Canadian Council of Muslim Women, said the ruling could make some Muslim women hesitant to come forward, but that the question of comfort while testifying goes further than Muslim woman. She said the woman's wish to wear her niqab is a matter of personal comfort, not a case of choosing religion over justice (Coutts, 2009).

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# references

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- CBC. (2010, October, 13). Niqab may be worn during Court testimony: Fairness of a trial must be taken into account: ruling. *cbc.ca*. Retrieved from <http://www.cbc.ca/canada/toronto/story/2010/10/13/toronto-niqab-court-of-appeal-decision.html>
- Coutts, Matthew. (2009, February 2). Niqab ruling raises legal, religious issues in Toronto court. *National Post*. Retrieved from <http://www.nationalpost.com/m/story.html?id=1245546>
- Kari, Shannon. (2010, October, 12). Ontario Court to Rule if Woman can Wear Niqab while Testifying. *National Post*. Retrieved from <http://www.nationalpost.com/news/Ontario+court+rule+woman+wear+niqab+while+testifying/3660629/story.html>
- Muslim Median Network (2010, October 21). Muslim Community Welcomes Ruling from Ontario Court of Appeal Granting Right to Wear Niqab. *Muslim Observer*. Retrieved from <http://muslimmedianetwork.com/mmn/?p=7100>

# freedoms of conscience and religious expression in Canada

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- According to the [Canadian Charter of Rights and Freedoms](#), the freedoms of conscience (belief) and religious expression are guaranteed [fundamental freedoms](#) for all people and cannot be violated by the state. These freedoms also ensure that the state cannot discriminate against or violate the rights of minorities.



# previous veiling controversy

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- Bill 94 marked a shift in the discussion on religious expression in Canada. However, there had been similar debates on religious dress, including the hijab or headscarf. In early 2007, 11-year-old Asmahan Mansour was asked to remove her hijab while at a soccer tournament in Laval, Quebec. The referee cited safety concerns, arguing that the hijab might injure Asmahan while she played.
- This ruling was upheld by FIFA, the global soccer association. Asmahan's coach, as well as a number of organizations, challenged the referee's decision. They said that she should be allowed to continue to play and that asking her to remove her hijab would violate her charter right to religious expression.

[Click here to read more about Asmahan's case](#)

[Click here to read about Ontario and Quebec's difference of opinion regarding this case](#)

# niqab debates in the world

- Similar debates on banning the niqab have taken place globally, in other countries:  
  
France  
United Kingdom  
Belgium  
Netherlands  
Turkey
- Two Muslim countries, Tunisia and Turkey have also banned the hijab in public schools and universities or government buildings. These bans reflect the desire for a more secular nation as well as problematically linking the practice of hijab with extremism.

[Click here for more on the French niqab ban](#)

[Click here for more on niqab controversies in Europe](#)



<http://muslimvillage.com/2010/07/10/europeans-approve-americans-reject-niqab-ban-study/>

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# niqab debates in the world

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- In some countries, decisions to ban the niqab are at national and/or regional (provincial or municipal) levels. This is not the case in the United Kingdom (UK). Since 2007, schools in the UK can determine appropriate dress for students. This has resulted in the banning of the niqab in some schools across the country.

[Click here to read about a school banning the niqab](#)

# media coverage of veiling controversies around the world

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<http://www.nytimes.com/2010/07/14/world/europe/14burqa.html>

<http://news.bbc.co.uk/2/hi/europe/7236128.stm>

<http://news.bbc.co.uk/2/hi/6160620.stm>

<http://www.news.com.au/national/burqua-ban-is-un-australian-say-muslims/story-e6frfkvr-1225863357698>

<http://news.bbc.co.uk/2/hi/8658017.stm>

<http://news.bbc.co.uk/2/hi/8290606.stm>

<http://www.thestar.com/news/canada/article/706989--muslim-lobby-group-urges-ottawa-to-ban-burkas-niqabs>