A Comparative Analysis of European Islamophobia: France, UK, Germany, Netherlands and Sweden

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Introduction

A 2015 French court decision[1] disregarding Muslim dietary restrictions in public schools serves as a sobering reminder that growing Islamophobia threatens religious freedom in parts of contemporary Europe. Last year, a local French mayor announced that his district's school cafeterias would no longer provide students non-pork alternatives despite a sizable Muslim population and rules against bringing packed lunches. The Islamic faith prohibits consumption of pork, and its by-products or derivatives, in addition to prescribing religious standards of slaughter (*halal)* in the preparation of other types of meat and poultry. Notably, non-pork lunch alternatives have been available to Muslim students throughout France since 1984. In response to the decree, a Muslim group brought a court action requesting injunctive relief to stop their children from being forced to choose between pork and no food. The court decided, however, that such relief was unwarranted citing procedural deficiencies.

While the French Minister of Education denounced pork-free lunch options[2], these types of unjust laws and policies are nothing new to Muslims in France and other parts of Europe. This minority faith group continues to grapple with increased bias, prejudice and discrimination perpetrated by individuals, groups and institutions in a variety of contexts including in schools, at work and on the street. From banned *burkinis*, or modest swimwear, on French beaches to banning Muslim children from praying in German schools, anti-Muslim sentiment often victimizes the most vulnerable members of the minority faith community.

1. See, e.g., *French court rules school lunches may include pork. Muslims alarmed*, The Washington Post (Aug. 13, 2015), https://www.washingtonpost.com/national/religion/french-court-rules-school-lunches-may-include-pork-muslims-alarmed/2015/08/13/75968e74-41f0-11e5-9f53-d1e3ddfd0cda_story.html?utm_term=.f39abe332e05.
2. *See Pork or Nothing: How School Dinners are Dividing France*, The Guardian (Oct. 13, 2015) https://www.theguardian.com/world/2015/oct/13/pork-school-dinners-france-secularism-children-religious-intolerance.

This article engages in a descriptive, normative and comparative analysis of contemporary religious freedom challenges, measured by official restrictions and social hostilities, confronting Muslim minority communities in five European states, namely, France, United Kingdom, Germany, Netherlands and Sweden. Interdisciplinary in nature, this inquiry will initially contextualize the subject matter in Part I by surveying relevant public opinion research toward Islam and Muslims as well as prevailing social, economic and political conditions. Part II explores from a historical and legal vantage point the role of religion and protections extended to freedom of religion, at least in theory. Part III then examines the intersection of religion, law and society with a particular focus on Islamophobia. Finally, Part IV engages in a comparative analysis highlighting relevant observations, patterns and trends.

I. What do Europeans Think of Islam and Muslims?

Many Europeans view Islam as posing a greater threat to their values than other faith traditions.[3] Such biases are not inconsequential, they often reflect and/or influence laws, policies and practices. Unfavorable opinions and perceptions may translate into bans on religious attire, fuel opposition to mosque construction projects, and create hostility towards refugees from Muslim majority countries. Moreover, social, political and economic challenges may exacerbate such negative sentiments, as discussed below.

A. *France*

President Francois Hollande and Prime Minister Manuel Valls serve at the helm of French leadership. President Hollande's approval ratings are dismal, as low as 17 percent across the nation.[4] Key challenges confronting the republic include slow economic growth, discord with religious, racial and ethnic minorities, and terrorist attacks threatening national security. In the wake of the 2015 terror attacks in Paris, Hollande declared a State of Emergency that expanded executive and police powers with minimal judicial oversight.[5] Following from this, global human rights organizations have reported widespread abuses against French Muslims all in the name of security.

In France, there are approximately 3.5 to 5 million Muslims, comprising about 6 to 8.5 percent of the total population.[6] Most reside in impoverished areas beset with social and economic inequality.[7] While European immigrants have enjoyed high

3. See *Islam in Europe*, The Economist, Jan. 7, 2015, http://www.economist.com/blogs/graphicdetail/2015/01/daily-chart-2.
4. See *Hollande's Popularity Plumbs Record Low in French Opinion Poll*, Bloomberg News, Mar. 3, 2016, http://www.bloomberg.com/news/articles/2016-03-03/hollande-s-popularity-plumbs-record-low-in-french-opinion-poll.
5. See *Hollande's Post-Paris Power Grab*, Foreign Policy, Nov. 20, 2015, Foreign Policy, http://foreignpolicy.com/2015/11/20/hollandes-post-paris-power-grab.
6. See *id*.
7. See *After Charlie Hebdo attack, being Muslim in France may have become much harder*, International Business Times, http://www.ibtimes.com/

employment rates (79%), those from North Africa have struggled with unemployment.[8] As a result, 4.4 million people of Arab or African heritage live in "banlieues" or slums where poverty and crime are rampant.[9] Research reveals that 3 out of 5 children in the banlieues grow up in poverty.[10] In the aftermath of the 2015 attack on *Charlie Hebdo*, a French satirical magazine that lampooned Islam and Muslims, Prime Minister Valls described the banlieues as a "territorial, social, and ethnic apartheid."

While negative perceptions surrounding Islam and Muslims are often attributed to non-state terrorist actors and violent events, research shows that such unfavorable views predate the 9/11 attacks and "war on terror"/rise of ISIS in recent years. These perceptions correspond rather with the influx of immigrants from North Africa more than thirty years ago and likely relate to the country's historical role as a colonizer of the Arab and Muslim people. More than a decade ago, 74 percent of the French saw the Islamic faith as incompatible with their values.[11] In 2014 however, 40 percent of French respondents found the Islamic faith to be a threat.[12] Even more recently and perhaps counter intuitively, in the aftermath of two distinct terror attacks in 2015, one study found that 76 percent of French respondents held a favourable view of Islam.[13] This surprising finding may reflect the French perception of Islamic responses to those attacks. For example, Muslims worldwide, including the Muslim Council of France, condemned the violent assault against *Charlie Hebdo*, for instance.[14] Many Muslims utilized new media platforms, such as Twitter, to express their solidarity with the victims, their families and the French people.[15] Notably, two Muslim men were among those who protected innocent civilians against the *Charlie Hebdo* shooters—one, in fact, lost his life while doing so.[16]

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after-charlie-hebdo-attack-being-muslim-france-may-have-become-much-harder-1776482; see also, *What's driving European Muslim extremism?* PBS, http://www.pbs.org/newshour/bb/whats-driving-european-muslims-extremism.

8. Patrick Simon and Elsa Steichen, Slow Motion: The Labor Market Integration of New Immigrants in France (Migration Policy Institute May 2014), *available at* http://www.migrationpolicy.org/research/slow-motion-labor-market-integration-new-immigrants-france.
9. See *Nothings Changed 10 Years After French Riots*, The Guardian, Oct. 22, 2015, https://www.theguardian.com/world/2015/oct/22/nothings-changed-10-years-after-french-riots-banlieues-remain-in-crisis.
10. See *id*.
11. See *Muslims in EU: Cities Report, France*, Open Society Foundation, 2007, http://www.opensocietyfoundations.org/sites/default/files/museucitiesfra_20080101_0.pdf.
12. See Gert Pickel, An International Comparison of Religious Belief, ReligionMonitor: Understanding Common Ground (2014) https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/Studie_LW_Religionsmonitor_Internationaler_Vergleich_2014.pdf.
13. Michael Lipka, Muslims and Islam: Key Findings in the U.S. and around the World (Pew Research Center Dec. 7, 2015), available at http://www.pewresearch.org/fact-tank/2015/12/07/muslims-and-islam-key-findings-in-the-u-s-and-around-the-world.
14. See *Muslims Respond to Charlie Hebdo*, The Huffington Post, January 7, 2015, http://www.huffingtonpost.com/2015/01/07/muslims-respond-charlie-hebdo_n_6429710.html.
15. See *Not in Our Name: Muslims Respond in Revulsion to Charlie Hebdo Shooting*, Spectator, Jan. 2015, http://blogs.spectator.co.uk/2015/01/not-in-our-name-muslims-respond-in-revulsion-to-charlie-hebdo-shooting/
16. See *The Muslim Heroes Who Resisted the Paris Terrorists*, ThinkProgress, Jan. 11, 2015, https://

However, in 2016, 46 percent of French respondents expressed fear that refugees—the majority of whom are fleeing conflict in Muslim majority countries—will increase the likelihood of terrorism in their country and 53 percent feared that they would take jobs and social benefits. Additionally, 52 percent believed Muslims do not want to integrate, while 29 percent hold the group in a negative light.[17]

It is interesting to note that some of the negative opinions surrounding Muslims also coincide with national fiscal challenges coupled with acts of terror and an influx of non-European Muslim immigrants. The French economy suffered, like many others, during the 2008 world financial crises—when an overwhelming majority viewed Islam as incompatible with French values. In fact, the nation continues to experience unemployment, currently at 10.5 percent, at higher rates than other European countries.[18] This likely contributes to fears of immigrants taking jobs and social benefits as depicted above.[19] Significantly, those fears may not be predicated in reality because unemployment rates are approximately five (5) times higher among those of Arab and African descent who reside in the banlieues. And, this likely contributes to discord and social and political instability between France's minority and majority populations not to mention social and political instability.[20]

B. *United Kingdom*

Prior to his 2016 resignation as Prime Minister, David Cameron led at the political helm of the United Kingdom; he has since been replaced by Theresa May. A member of the country's conservative political party, Cameron grappled with a host of issues including terrorism, the marginalization of ethnic minority communities and most recently, Brexit, the 2016 referendum where British citizens voted to exit the European Union (EU) to improve the economy and manage immigration.[21] Following the country's decision to withdraw from the EU, Cameron stepped down from his post as he had favoured remaining a part of the organization notwithstanding the increased divisiveness surrounding immigration policy.[22]

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thinkprogress.org/the-muslim-heroes-who-resisted-the-paris-terrorists-3dc5d1262bb9#.w2agf2cs6.

17. Richard Wike, Bruce Stokes and Katie Simmons, Europeans Fear Wave of Refugees Will Mean More Terrorism, Fewer Jobs (Pew Research Center Jul. 11 2006), http://www.pewglobal.org/2016/07/11/europeans-fear-wave-of-refugees-will-mean-more-terrorism-fewer-jobs.
18. See *Is France Failing Its Muslim Youth?*, Aljazeera (Jan. 14, 2015), *available at* http://america.aljazeera.com/articles/2015/1/14/france-islamophobiaimmigration.html.
19. See *Immigration Fears and Policy Uncertainties*, Vox – Center for Economic Policy Research Portal (Dec. 15, 2015), available at http://voxeu.org/article/immigration-fears-and-policy-uncertainty.
20. See *id*.
21. The UK absorbs approximately 330,000 immigrants annually, and about one half came from within the EU creating anxieties among native Britons. As a former member of the EU, the country was forced to keep its borders open so as to facilitate fluid migration including from more troubled European economies. *Brexit: What Will Immigration Look Like If Britain Leaves the EU?,* CNN (Jun. 16, 2016), http://www.cnn.com/2016/06/16/europe/brexit-britain-immigration-referendum.
22. *The Brexit Briefs,* The Economist, Jun. 2016, http://www.economist.com/sites/default/files/EconomistBrexitBriefs16.pdf. UK EU Referendum Brexit Poll Tracker, Financial Times (Jun. 23 2016), https://ig.ft.com/sites/brexit-polling.

There are approximately 1.6 to 2.7 million Muslims in the United Kingdom, and half of which are native Britons.[23] British Muslims comprise about 4.8 percent of the total population.[24] Although some Muslim communities live extremely isolated from the rest of society, these reports are often exaggerated. Representative embellishments are those of former U.S. Louisiana Governor, Congressman and Republican presidential candidate, Bobby Jindal's false claim that "no-go zones" exist in Muslim majority neighborhoods (e.g. Binghamton) where non-Muslims are barred from entering; these allegations have since been thoroughly refuted.

While the country has long favored a policy of multiculturalism,[25] a 2011 survey found that when asked about religion, approximately 75 percent of Britons selected Islam as most violent.[26] Similar to the French, 43 percent of Britons saw Muslims as fanatical while 32 percent saw the Muslims as violent. In 2013, when two self-identifying Muslims killed British soldier Lee Rigby in London, research found that fewer than one in four Britons saw Islam as compatible with British values.[27] In 2014, 35 percent saw the Islamic faith as a threat.[28] More recently, in 2015, 72 percent held a favorable view of Islam.[29]

It is however interesting to note that in recent years, Britons who openly identify as Muslims accomplished several achievements that may have helped cast Islam in a positive, alternative light. An example of this Representative is Sadiq Khan, who was elected as London's "first Muslim mayor"[30] after a campaign spewing with anti-Muslim vitriol in 2016. Also, in 2015, Nadiya Hussain— who donned an Islamic headscarf—won *The Great British Bake Off,* an award-winning British television baking competition, and the admiration of many compatriots, including then Prime

23. See *Muslims in EU: Cities Report, Germany*, Open Society Foundation, 2007, http://www.opensocietyfoundations.org/sites/default/files/museucitiesuk_20080101_0.pdf.
24. See *United Kingdom: U.S. State Department Report on International Religious Freedom* (2014), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper.
25. See *After Charlie Hebdo attack in France, backlash against Muslims feared*, The Los Angeles Times, (Jan. 9, 2015), *available at* http://www.latimes.com/world/europe/la-fg-europe-politics-20150109-story.html#page=1.
26. See Muslim-Western Tensions Persist, *How Muslims and Westerners View Each Other* (Pew Research Centers Global Attitudes Project Jul. 21, 2011), *available at* http://www.pewglobal.org/files/2011/07/Pew-Global-Attitudes-Muslim-Western-Relations-FINAL-FOR-PRINT-July-21-2011.pdf.
27. See *Baroness Warsi: Fewer than one in four people believe Islam is compatible with British way of life,* The Independent (Jan. 24, 2013), *available at.* http://www.independent.co.uk/news/uk/home-news/baroness-warsi-fewer-than-one-in-four-people-believe-islam-is-compatible-with-british-way-of-life-8464026.html.
28. See Gert Pickel, *An International Comparison of Religious Belief*, ReligionMonitor: Understanding Common Ground, (2014), *available at* https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/Studie_LW_Religionsmonitor_Internationaler_Vergleich_2014.pdf.
29. See Michael Lipka, Muslims and Islam: Key Findings in the U.S. and around the World (Pew Research Center Dec. 7, 2015), *available at* http://www.pewresearch.org/fact-tank/2015/12/07/muslims-and-islam-key-findings-in-the-u-s-and-around-the-world.
30. See *London Elects First Muslim Mayor*, CNN (May 6, 2016) *available at* http://www.cnn.com/2016/05/06/europe/uk-london-mayoral-race-sadiq-khan.

Minister Cameron who publicly remarked, "She is so cool under pressure."[31] While research shows that nine in ten news stories about Muslims and Islam in the UK are contextualized in violence (war or terrorism) these developments attracted national and international headlines that very likely helped redefine and *humanize* British Muslims in the public mind. The latter assertion is strengthened by the fact that since Muslims constitute a minority population, most Britons obtain information about the group from news sources. Alternative portrayals of Muslims in news sources—as presented organically by Sadiq Khan and Nadiya Hussain—are bound to have a positive sociological effect. And, this may help explain a 72 percent favorability rating of Islam notwithstanding multiple terror attacks by self-identifying Muslim extremists in France that occurred contemporaneously.

Still, the sociological impact of the so-called refugee crises is also significant. In 2016, 28 percent viewed Muslims in a negative light;[32] 52 percent believe accepting refugees increases the likelihood of terrorism in the country; 46 percent fear those refugees will take jobs and social benefits; and 54 percent suggest Muslims refuse to integrate.[33]

Similar to many others in the region, the UK economy suffered because of the 2008 global recession, but has largely recovered since although economic anxieties persist among Britons. Unemployment presently hovers around five percent and the country enjoys one of the faster growing developed economies.[34] Still, the UK is the third most income unequal European country, behind Spain and Greece.[35] In 2009, 20 percent of Caucasians lived below the poverty line as compared to 43 percent of ethnic minorities, showing a clear correlation between ethnic group and wealth. More than one half of British Muslims occupies the bottom ten (10) percent of the nation's wealth group.[36]

C. *Germany*

First elected in 2005, Angela Merkel is Germany's chancellor and the nation's first female to govern in that capacity. Merkel is a member of the center-right Christian Democratic Union of Germany Party, which has become largely secularized.

31. *How Nadiya Hussain Became Great British Bakeoff Favourite*, The Guardian (Oct. 7, 2015), *available at* https://www.theguardian.com/tv-and-radio/2015/oct/07/nadiya-jamir-hussain-great-british-bake-off-favourite.
32. See Michael Lipka, *Muslims and Islam: Key Findings in the US and Around theWorld*, Pew Research Center (Jul. 22, 2016), *available at* http://www.pewresearch.org/fact-tank/2016/07/22/muslims-and-islam-key-findings-in-the-u-s-and-around-the-world.
33. See Richard Wike, Bruce Stokes and Katie Simmons, Europeans Fear Wave of Refugees Will Mean More Terrorism, Fewer Jobs (Pew Research Center Jul. 11 2006), http://www.pewglobal.org/2016/07/11/europeans-fear-wave-of-refugees-will-mean-more-terrorism-fewer-jobs.
34. Gemma Tetlow, Emily Cademan, Steven Barnard and Tom Pearson, *The UK Economy at a Glance*, Financial Times, https://ig.ft.com/sites/numbers/economies/uk.
35. *The Scale of Economic Equality in the UK*, The Equality Trust, https://www.equalitytrust.org.uk/scale-economic-inequality-uk.
36. Louise Ridley, *British Muslims Among the Most Deprived in the Country, Landmark Report Finds*, The Huffington Post UK (Feb. 13, 2015) http://www.huffingtonpost.co.uk/2015/02/12/british-muslims-facts_n_6670234.html.

Germany receives more immigrants in the world second only to the United States.[37] Merkel has been heavily criticized for her pro-immigration policies, particularly in the context of the so-called Syrian refugee crises—men, women and children fleeing violent conflict in Syria, described as the worst humanitarian crises of the modern era.[38]

There are approximately 3 to 4 million Muslims in Germany and they comprise approximately 4 to 5 percent[39] of the total population. They represent the second largest Muslim population in Europe, after France.[40] Many Muslims initially arrived in Germany seeking employment in the 1960s and 1970s and have remained since.[41] More recently, as noted above, Muslims arrive in Germany as political refugees fleeing persecution and violence in their native countries. [42] In 2015, for example, more than 1 million people immigrated to Germany and a majority were Muslim refugees from Syria, Afghanistan, and Iraq. This influx of refugees has been met with increased Islamophobia.

In 2013, for instance, the anti-immigration party, *Alternative für Deutschland* or Alternative for Germany (AfD), was founded. Its leaders claim that the Islamic faith is incompatible with the German constitution and as such, officials must undertake measures to stop the flow of Muslim immigration and from there integrate or remove the existing population within the country's borders.

Research evidence suggests many Germans hold negative perceptions of Muslims. In addition, since October 2014, xenophobic and anti-Muslim marches led by the Patriotic Europeans Against the Islamization of the West has attracted as many as 17,500 supporters.[43] Hate groups are reportedly prevalent among them and some have characterized the movement as "pinstriped Nazis."[44] Notably, as much as 30

37. See, e.g., *5 Countries That Take the Most Immigrants*, US News and World Report (Sept. 25, 2015) https://www.usnews.com/news/slideshows/5-countries-that-take-the-most-immigrants.
38. See *Brexit: German Chancellor Angela Merkel Treads a Careful Political Line*, Euronews, June 22, 2016, http://www.euronews.com/2016/06/22/brexit-german-chancellor-angela-merkel-treads-a-careful-political-line.
39. See *"Germany:" U.S. State Department Report on International Religious Freedom* (US Department of State 2014), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper.
40. See Nina Mühe, Muslims in EU: Cities Report, Germany, (Open Society Foundation 2007) http://www.opensocietyfoundations.org/sites/default/files/museucitiesger_20080101_0.pdf; see also Patrick Donahue, *Paris killings seen as fueling Europe's anti-Muslim sentiment,* Bloomberg News, Jan. 7, 2015, http://www.bloomberg.com/news/2015-01-07/paris-killings-seen-fueling-europe-s-anti-islam-sentiment.html.
41. See Alison Smale, *Teaching Islam's forgotten side in a changing Germany*, The New York Times, Jan. 10, 2015, http://www.nytimes.com/2015/01/10/world/europe/teaching-islams-forgotten-side-in-a-changing-germany.html?_r=0.
42. See Nina Mühe, Muslims in EU: Cities Report, Germany (Open Society Foundation 2007), http://www.opensocietyfoundations.org/sites/default/files/museucitiesger_20080101_0.pdf.
43. See Melissa Eddy, *In Sweden, land of the open door, anti-Muslim sentiment finds a foothold*, The New York Times, Jan. 3, 2015, http://www.nytimes.com/2015/01/03/world/in-sweden-the-land-of-the-open-door-anti-muslim-sentiment-finds-a-foothold.html?_r=0.
44. See *Christian clergy are fighting against Germany's anti-Islam protests*, The Washington Post, Jan. 2, 2015, http://www.washingtonpost.com/blogs/worldviews/wp/2015/01/02/christian-clergy-are-fighting-against-germanys-anti-islam-protests.

percent of Germans view the rallies as "justifiable" due to Islam's influence,[45] while 52 percent believe "Islam doesn't belong to Germany."[46]

Indeed, research evidence suggests many Germans hold negative perceptions of Muslims.[47] In 2016, approximately 40 percent supported a Muslim ban on immigration[48] and 60 percent believed Islam has no place in the country.[49] A 2015 study found anti-Muslim sentiment to be pervasive—transcending income, education levels and political affiliation. [50] It revealed that 57 percent of Germans view Islam as a threat, and 61 percent of Germans believe it is incompatible with Western values. [51] Interestingly, three-quarters of respondents who tend to be dissatisfied with their own lives perceived Islam as a threat.

Germany is the world's fourth largest economy, behind Japan, China, and the United States. Despite being one of the biggest exporters in the world, Germany has yet to experience a setback to their trade like many other export-based economies such as Russia and China. Economists worry that Britain leaving the Eurozone could have severe detrimental effects on the German economy.[52] However immigration to the country has been plentiful, Germany is finding difficulty in maximizing the benefit of these immigrants economically due to language and training barriers.[53]

D. *Netherlands*

The Prime Minister of the Netherlands is Mark Rutte, a member of the nation's Peoples Party for Freedom and Democracy (VVD). The VVD is one of the country's liberal parties, both economically and socially. Geert Wilders, the head of the Party for Freedom (PVV), is Rutte's most formidable opponent in contemporary Dutch politics. The PVV is Netherland's anti-immigrant and hard right populist party. Wilders favors a restrictive approach to immigration and opposes the alleged "Islamization" of Europe.

45. See *Muslims to march in protest of widespread racial hatred*, Daily Sabah, Jan. 3, 2015, http://www.dailysabah.com/europe/2015/01/03/muslims-to-march-in-protest-of-widespread-racial-hatred; see also *Poll: anti-Muslim marches would draw 1 in 8 Germans*, Al Jazeera, Jan. 1, 2015, http://america.aljazeera.com/articles/2015/1/1/pegida-germany-immigration.html.
46. . See *Id*.
47. See *Religion Monitor: Special Study of Islam* (2015) *available at*, http://www.bertelsmann-stiftung.de/fileadmin/files/Projekte/51_Religionsmonitor/Religionmonitor_Specialstudy_Islam_2014_Overview_20150108.pdf.
48. *Islamophobia rising in Germany following influx of Muslim refugees – study*, RT (Jun. 16 2016) https://www.rt.com/news/346930-islamophobia-germany-refugees-study.
49. *Islam does not belong in Germany, 60% agree with AFD*, RT (May 5, 2016) https://www.rt.com/news/341888-islam-germany-poll-afd.
50. See *Id*.
51. See *Id*.
52. See Will Martin, *Analysis on Brexit's Effect on German Economy*, Business Insider (Jun. 2016) http://www.businessinsider.com/diw-london-analysis-on-brexits-effect-on-german-economy-2016-6?r=UK&IR=T.
53. See Michael Heise, *Economic Myths and Reform Realities for Germany*, Wall Street Journal (Jun. 2 2016), http://www.wsj.com/articles/economic-myths-and-reform-realities-for-germany-1464897303.

There are approximately one (1) million Muslims in the Netherlands, representing 5.8 percent of the total population.[54] Many first arrived in the 1960s and 1970s seeking employment. [55] In 2015, the Netherlands received more than 23,000 refugees and more than 16,000 fled from Syria.[56] The Dutch have been advocating for border closures to stem the recent flow of refugees and has even begun a ferry service designed to return refugees to Turkey.[57] In 2016, polling data revealed 65 percent of Dutch respondents believe immigration is the greatest challenge confronting their nation, today.[58]

Members of the Muslim minority faith group often confront prejudice and discrimination, together with negative perceptions surrounding the incompatibility of Islam and European values. [59] Research shows that 65 percent of the Dutch believe Muslims are opposed to integration. Even more—76 percent—are concerned about violent extremism among Muslims in their country while about one half—51 percent—view members of the minority faith group unfavorably. Moreover, strong majorities view the Islamic faith as violent (88 percent) and immigration from the Middle East and North Africa region in a negative light (67 percent). In 2016, 61 percent believed refugees increased the likelihood of terrorism in their country and 44 percent fear that they will take jobs and social benefits.[60]

The Netherlands' economic recovery from the global financial crises has been difficult and slow. While the housing prices are rising, for instance, it is still 15 percent lower than pre–recession levels.[61] Since the Dutch economy is interdependent due to heavy trade, the UK's departure from the EU could have an adverse impact on the Netherlands.[62]

54. See Nina Mühe, Muslims in EU: Cities Report, Germany (Open Society Foundation 2007) http://www.opensocietyfoundations.org/sites/default/files/museucitiesnet_20080101_0.pdf
55. See *Id*.
56. See *A record 8,400 refugees came to the Netherlands in September*, Dutch News (Oct. 21, 2015), http://www.dutchnews.nl/news/archives/2015/10/a-record-8400-refugees-came-to-the-netherlands-in-september.
57. See *Netherlands Announces Tighter Border Controls to Stem Migrant Flow*, DW, http://www.dw.com/en/the-netherlands-announces-tigher-border-controls-to-stem-migrant-flow/a-19034506. See *Dutch Plan to Ferry Refugees Back to Turkey*, Aljazeera (Jan. 30, 2016), http://www.aljazeera.com/news/2016/01/netherlands-plan-ferry-refugees-turkey-160128170612335.html.
58. See *Refugee Crises: A Top Concern for Dutch People*, NLTimes (Mar. 29, 2016), http://www.nltimes.nl/2016/03/29/refugee-crisis-a-top-concern-for-dutch-people.
59. See *"Netherlands," International Religious Freedom Report, (*US State Department, 2014), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper.
60. See Richard Wike, Bruce Stokes and Katie Simmons, Europeans Fear Wave of Refugees Will Mean More Terrorism, Fewer Jobs (Pew Research Center Jul. 11 2006), http://www.pewglobal.org/2016/07/11/europeans-fear-wave-of-refugees-will-mean-more-terrorism-fewer-jobs.
61. See *Why is the Netherlands Doing So Badly?,* The Financial Times (June 16, 2016), http://ftalphaville.ft.com/2016/06/16/2166258/why-is-the-netherlands-doing-so-badly.
62. See *Effect of Brexit Relatively Severe on Dutch Economy*, Reuters (June 9, 2016) http://uk.reuters.com/article/uk-britain-eu-dutch-idUKKCN0YV09W.

A. *Sweden*

The current Prime Minister of Sweden is Stefan Löfvan, the head of the country's center-left Swedish Social Democratic Party (SAP). The SAP has progressive economic and social policies based on their democratic socialist ideology. Lofvan's approach to immigration has mirrored his approval ratings. Once welcoming of newcomers, Lofvan adopted a more restrictive approach once his popularity plummeted. Recently, he downgraded the country's acceptance of immigrants to the EU minimum. [63]

Historically, Sweden was one of the most welcoming nations for refugees, but this norm is slowly shifting due to increased xenophobia.[64] Although the Swedes continue to perceive themselves as an open and tolerant society, recent attacks and discriminatory rhetoric towards African and immigrant populations reveals structural racism. According to research, for instance, an individual is fifty percent more likely to secure employment with an authentic Swedish rather than Arabic surname.[65]

Sweden's Muslim population represents approximately 1.8 to 6 percent of the total population, estimated at about 9 million, and is religiously, linguistically, ethnically and culturally diverse.[66] Many first migrated for employment related reasons in the 1960s and 1970s and have remained since.[67] Afterwards, many Muslims came to Sweden as refugees fleeing violence and persecution in their native lands.[68] Most recently, the country received 163,000 asylum seekers and approximately 51,000 were Syrians.[69]

Muslims are often viewed negatively. Many Swedes view Islamic and European values as incompatible, a sentiment prominent in other parts of Europe as noted above.[70] In 2014, 35 percent of Swedes saw Islam as a threat while one half believed it is incompatible with the Western world.[71] More recently, in 2015, 41 percent said the country granted too many asylum requests.[72] Even more recently, in 2016, 35 percent

63. See *Swedish PM describes countrymen's gloom as surreal*, Financial Times, http://www.ft.com/cms/s/0/a641c074-ffdd-11e5-9cc4-27926f2b110c.html#axzz4CuV4mS6O.
64. See Maddy Savage, *EU Referendum: Could Brexit lead to Sweden 'Swexist'?*, BBC (Jun. 18, 2016), http://www.bbc.com/news/uk-politics-eu-referendum-36548114.
65. See Gavin Haynes, *Guide to European Racist Leagues*, Vice (Jun. 19, 2012) https://www.vice.com/read/guide-to-european-racist-leagues.
66. See Dr Göran Larsson, Muslims in EU: Cities Report, Germany (Open Society Foundation 2007) http://www.opensocietyfoundations.org/sites/default/files/museucitiesswe_20080101_0.pdf; see also *"Sweden," U.S. State Department International Religious Freedom Report,* (US Department of State 2014), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper.
67. See *Id*.
68. See *Id*.
69. See *Nearly 163,000 people sought asylum in Sweden*, Migration Verket (Jan. 12, 2016), http://www.migrationsverket.se/English/About-the-Migration-Agency/News-archive/News-archive-2016/2016-01-12-Nearly-163000-people-sought-asylum-in-Sweden-in-2015.html.
70. See *Id*.
71. See Pickel, Gert. "An International Comparison of Religious Belief." ReligionMonitor: Understanding Common Ground, 2014. Accessed June 2016. https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/Studie_LW_Religionsmonitor_Internationaler_Vergleich_2014.pdf.
72. See *Poll: Swedish Support for Refugees Falls*, Euractiv.com, http://www.euractiv.com/section/

saw Muslims in a negative light, 57 percent feared refugees compromised national security and 32 percent indicated that they would take jobs and social benefits.[73]

Sweden is well ahead of the United States, Germany and the UK in regards to its recovery following the global financial crisis.[74] The country has an 8 percent unemployment rate, however.[75] Estimates suggest that Sweden's GDP could grow by an extra 0.5 percent due to the immigration, because of a greater need for housing, teachers, and other necessities for these newcomers. There is, in fact, a growing concern at how much the government will have to spend in the upcoming years, as some Swedes already pay 57 percent of their income as taxes to help maintain the government's social benefits which some believe refugees will take.[76]

II. The Role of Religion and Protections Extended to Freedom of Religion

A. *France*

As noted above, France is home to Europe's largest Muslim population.[77] French laws on religious freedom and secularism, however, can make it difficult for French Muslims to practice certain aspects of their faith. *Laicite*, which is both a cultural idea and a law, maintains a strict separation of church and state and has been in place since 1905.[78] While it was originally designed to limit the power of the Catholic Church and its clergy members, it has now transformed into a way of completely separating (Islamic) religious identity and affiliation from public spaces.[79]

Per the Separation Law of 1905 separating church and state, the government does not directly finance religious groups to build new mosques, churches, synagogues, or temples. The government may, however, provide loan guarantees or lease property to groups at advantageous rates. It also exempts places of worship from property taxes. In addition, the government may fund cultural associations with a religious connection. Local governments may also provide financial support for building religious edifices.[80]

Aside from the principle of *laicite*, many of France's constitutional documents have mentioned aspects of religious freedom. Under Article 2 of the French

justice-home-affairs/news/poll-swedish-support-for-refugees-falls.

73. See *Anti-Muslim Views Rise Across Europe*, The Washington Post (Jul. 11, 2016), https://www.washingtonpost.com/news/worldviews/wp/2016/07/11/anti-muslim-views-rise-across-europe.
74. See *Sweden: 2016 Economic Index of Freedom,* Heritage Foundation, *available at* http://www.heritage.org/index/country/sweden.
75. See *Id*.
76. See *Sweden: 2016 Economic Index of Freedom*, Heritage Foundation, *available at* http://www.heritage.org/index/country/sweden.
77. See Audie Cornish, *French Law 'Laicite' Restricts Muslim Religious Expression*, NPR (Mar. 4, 2015), *available at* http://www.npr.org/2015/03/04/390757722/french-law-laicite-restricts-muslim-religious-expression.
78. *Ibid*.
79. *Ibid*.
80. *France: International Religious Freedom Report* (US Department of State 2013), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper.

Constitution of 1958 the law provides, for instance, "France is an indivisible, secular [*laïc*], democratic, and social republic. It ensures the equality before the law of all of its citizens, without distinction as to origin, race, or religion. It respects all beliefs." As discussed in the Part below, this article is subject to broad interpretation. In addition, the French Declaration of the Rights of Man and Citizen in 1789 and the Universal Declaration of Human Rights, which France helped draft, all uphold the idea of religious freedom.[81]

In France, laws regulating religion in the public square became an issue due to an influx of predominantly Muslim immigrants in the 1980's. Most notably, in 2004, the French legislature passed an amendment to the French Code of Education banning religious symbols in primary and secondary schools. Ostensibly, the newly enacted legislation did not single out any one particular faith group but in effect, it had a disparate impact upon Muslim female students who observed the *hijab* or Islamic headscarf.

In 2010, the state enacted another prohibition on religious attire. More specifically, it banned face veils or the *niqab* in public spaces such as government buildings, restaurants, movie theaters and public transportation. Pursuant to this measure, commonly but erroneously referred to as the "*Burqa Ban*," law enforcement officials may request the removal of the *niqab* to verify a woman's identity. They can also fine her up to 150 Euros and subject her to citizenship instruction for non-compliance.

Although *Laicete* was originally intended to undermine the Catholic Church's power post–Revolution, it has now become one of the fundamental cornerstones of French politics. While the concept is employed to curtail one's public manifestation and expression of religious practice and belief to ensure a homogenous and unified French nation, many argue that it, in fact, contributes to the growing isolation of Muslims who view spiritual observance as an integral part of their faith.

Terrorist attacks have plagued France over the past several decades and while national security concerns persist, the sources of violent conflict have evolved. Historically, Algerian extremists opposed to French colonialism conducted many of these attacks. Today, homegrown violent extremists are terrorizing innocent civilians. In January 2015, for instance, alleged agents of Al Qaeda in Yemen and ISIL murdered twenty (20) employees at the offices of *Charlie Hebdo*, a French satirical magazine. *Charlie Hebdo* had previously engaged in frequent harsh criticism of the Islamic faith, including disrespectful depictions of the Prophet Muhammad (P). Later, in November 2015, ISIS also claimed responsibility for shootings and a suicide bombing in Paris. Commentators observed that a number of the perpetrators were born and raised in France, revealing a growing disconnect of French Muslims and institutionalized discrimination (justified by the principle of *laicite*) may be contributing factors to violent radicalization and enhanced extremist recruitment among alienated youth.

81. *Ibid*.

B. *United Kingdom*

The United Kingdom has two state religions, The Church of England and the Church of Scotland. In the UK, Parliament is one of the leading forces in shaping and influencing religious life. An important point in the relationship between Parliament and governance of religious life was the enactment of the Toleration Act of 1689, which granted freedom of worship to nonconformists (those who did not adhere to the Church of England).[82] Since then, Parliament has granted religious freedom protections to other faiths, Christian and non-Christian, and those who practice no faith at all.[83]

Many provisions protecting religious freedom are found in the European Convention on Human Rights (ECHR), to which the UK is a founding signatory. Although the idea of religious liberty has a strong tradition, most of its protections have risen out of a mixture of legislation and case law. In addition, the position in English and Scots law has been that "'freedom'—not just freedom of religion but freedom of action generally—is the freedom to do as one wishes, provided there is nothing in statute or common law prohibiting it."[84]

The Equality Act of 2010 supplanted prior non-discrimination legislation, and includes religion and/or belief—and lack thereof—as one of its protected characteristics.[85] The Racial and Religious Hatred Act of 2006 focuses almost entirely upon religious hatred although its legal title references race. The Act defines religious hatred as "'hatred against a group of persons defined by reference to religious belief or lack of religious belief.'"[86]

In public schools, religious education is required although specific content and teaching materials are determined at the local level. Parents have the ability to opt out their from religious education, however.[87] Additionally, in England and Wales, daily collective prayer or worship of "a wholly or mainly . . . Christian character" is practiced in schools.[88]

Students may have the requirement waived or engage in an alternative form of worship, but only with official permission. Sixth form students (generally 16- to 19-year-olds in the final two years of secondary school) may withdraw by law from worship without parental permission, but this does not excuse them from religious education classes. Teachers, with the exception of those at a private religious school, have the option to decline participation in collective worship.[89] Notably, Islamic

82. *Parliament, Church and Religion*, UK Parliament, http://www.parliament.uk/about/living-heritage/transformingsociety/private-lives/religion/overview/church-and-religion.
83. *Ibid*.
84. Frank Cranmer, *Law and Religion in the United Kingdom*, Religion and Law Consortium (2016) http://www.religlaw.org/common/document.view.php?docId=7127.
85. *Ibid*.
86. *Ibid*.
87. *Ibid*.
88. See United Kingdom: International Religious Freedom Report 2014 (U.S. Department of State 2014), *available at* http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2014&dlid=238446#wrapper.
89. *Ibid*.

law is permitted in some aspects of day-to-day court procedures, such as dispute mediation, marriage, and finance, so long as it does not contradict British law.

C. *Germany*

The foundations of German society are based on The Basic Law and the fundamental rights protected within it.[90] The Basic Law, which serves as the German constitution, provides for "freedom of faith and conscience and the practice of one's religion."[91] In addition, it prohibits the use of a state church and does not require religious groups to register with the state. Groups are free to organize privately and function as a non-profit association with tax exemption.[92]

Some state and federal laws may adversely impact Muslim religious practices. For example, animal protection laws forbid the killing of animals without anesthesia, and some halal and kosher slaughter practices do not use anesthesia."[93]

According to the jurisdiction of the Federal Constitutional Court, the nation's supreme constitutional court, the guarantee of freedom of belief, confession, and worship also includes freedom of religious association. The right to enjoy freedom of individual and collective worship is independent of being vested with legal capacity. Church and state are separate, although a special partnership exists between the state and religious groups that have a "public law corporation" (PLC) status. Any religious group may request PLC status, which entitles the group to appoint prison, hospital, and military chaplains and to levy tithes. PLC status also allows for tax exemptions and representation on supervisory boards of public television and radio stations.

The decision to grant PLC status is made at the state level based on an assurance of the group's permanence, its size, and an indication that the group is not hostile to the constitutional order or fundamental rights. An estimated 180 religious groups have PLC status, including the Protestant and Catholic churches, the Jewish community, The Church of Jesus Christ of Latter-day Saints (Mormons), Seventh-day Adventists, Mennonites, Baptists, Methodists, Christian Scientists, and the Salvation Army. No Muslim communities have PLC status.[94]

D. *Netherlands*

Religious freedom protections in the Netherlands dates back to 1579 when the Union of Utrecht guaranteed the freedom to cherish a religious belief and freedom

90. See Sabine Leutheusser-Schnarrenberger, *Freedom of Religion and the Rule of Law in Germany*, The Guardian (Mar. 9, 2011), *available at* https://www.theguardian.com/commentisfree/belief/2011/mar/09/freedom-religion-rule-law-germany.
91. See Germany: International Religious Freedom Report (U.S. Department of State 2014), *available at* http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2014&dlid=238384.
92. *Ibid*.
93. *Ibid*.
94. See Stefano Allievi, Mosques in Europe: Why a solution has become a problem (NEF Initiative on Religion and Democracy in Europe 2010), *available at* http://www.nef-europe.org/wp-content/uploads/2013/03/mosques-in-Europe-fullpdf.pdf.

from religious persecution. Today, the Dutch constitution protects freedom of religion, including the freedom to change religious beliefs.

The Constitution of 1983 forms the basis of state-church relations in the Netherlands. Article 6 states that "everyone shall have the right to manifest freely his religion or belief, either individually or in community with others, without prejudice to his responsibility under the law."[95] The state can restrict religious practice on account of various enumerated grounds, such as public disorder or health hazards.[96]

Most legal regulations permitting the state's direct financial support for the construction of churches were abolished by the mid–1970s. Pursuant to the Monuments Act, the government finances some maintenance costs for houses of worship when they are classified as "monumental." In addition, since 1971, religious organizations and other ideological associations have been exempt from real estate taxes.[97]

Finally, it is a crime to incite religious, racial or ethnic hatred through public speech, but these offenses are rarely prosecuted due to societal deference to personal expression.[98] Similar criminal laws exist in the UK and France.

E. *Sweden*

The Swedish constitution protects the freedom to worship and provides "the freedom to practice one's religion alone or in the company of others, as far as societal peace is not disturbed or it causes general offense."[99]

In January 2009, the state enacted new anti-discrimination legislation and created a new federal agency, the Equality Ombudsman, to help ensure compliance.[100] The new law, which supplanted seven prior pieces of legislation, prohibited discrimination on the basis of sex, transgender identity or expression, ethnic origin, religion or other belief, disability, sexual orientation, and age in schools, universities, housing, medical care, the military services and places of employment. The law also allowed victims of discrimination to receive compensation. It was designed to "compensate for the violation represented by an infringement and act as a deterrent against discrimination."[101]

95. See *Mosques in Europe: Why a solution has become a problem*, NEF Initiative on Religion and Democracy in Europe (2010), *available at* http://www.nef-europe.org/wp-content/uploads/2013/03/mosques-in-Europe-fullpdf.pdf.
96. *Ibid*.
97. See M.J.M. Maussen, Constructing mosques : the governance of Islam in France and the Netherlands (FMG: Amsterdam Institute for Social Science Research 2009), *available at* http://dare.uva.nl/document/2/61290.
98. Sophie Von Bijsterveld, *Religion and Law in the Netherlands*, 17 Turkey Insight 121-141, (2015), *available at* http://file.insightturkey.com/Files/Pdf/sophie_art.pdf.
99. See The Constitution of Sweden, *available at* http://www.riksdagen.se/en/SysSiteAssets/07.-dokument--lagar/the-constitution-of-sweden-160628.pdf.
100. See *New Anti-discrimination Legislation and a New Agency, the Equality Ombudsman*, Government Offices of Sweden, *available at* http://www.government.se/contentassets/fdd977b5d2ba43459ab3c02fd7e99d5b/fact-sheet-new-anti-discrimination-legislation-and-a-new-agency-the-equality-ombudsman.
101. *Ibid*.

III. Religion, Law and Society

Notwithstanding the legal framework surrounding religious freedom described immediately above, and sometimes because of it, the attitudes and opinions towards Muslims and Islam surveyed in Part I may manifest in discriminatory policies, bias intimidation, and exclusionary practices at work and school. Increasingly, European Muslims, particularly women who observe the hijab, suffer acts and threats of violence.

A. *France*

1. Hate Crimes

According to the U.S. State Department, in 2013, law enforcement officials recorded approximately 226 anti-Muslim hate crimes, an increase of 11.3 percent from the previous year.[102] Significantly, many anti-Muslim hate crimes are perpetrated against women who are identifiably Muslim due to religious attire. For instance, two men assaulted a pregnant Muslim woman in Paris and attempted to remove her hijab. [103] Four days later, the woman suffered a miscarriage.

More recently, the 2015 terrorist attacks on the French satirical magazine *Charlie Hebdo* and in Paris were associated with an increased number of reported anti-Muslim hate crimes. Whereas 2014 saw 133 reported hate crimes, there were more than 400 such bias incidents in 2015. Per the French National Human Rights Commission (CNCDH), this represented a 223 percent increase in anti-Muslim hate crimes.[104]

The crimes included grenades thrown at mosques, gun shots, a bomb explosion at a kebab restaurant attached to a mosque and a boar's head and entrails left outside a Muslim prayer room with a note that read 'Next time it will be one of your heads.'"[105]

2. Mosques

In addition to acts and threats of violence against mosques, French Muslims have experienced government impediments as well as popular opposition to mosque construction projects. Amidst national controversy, a French appeals court ruled in June 2012 to allow the building of a large-scale mosque in the southern city of Marseille.

102. See *France*, International Religious Freedom Report *(*US State Department 2014), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper.
103. See *id*.
104. See *New French Report Shows Rise in Attacks on Muslims, Sustained Targeting of Jews amid Rising Tolerance (report),* EuroIslam News and Analysis on Islam in Europe and North America (May 6, 2016), *available at* http://www.euro-islam.info/2016/05/06/new-french-report-shows-rise-in-attacks-on-muslims-sustained-targeting-of-jews-amid-rising-tolerance-report.
105. See Mona Chalabi, *France Has a History of Anti-Semitism and Islamophobia*, FiveThirtyEight (Jan. 14, 2015), *available at* http://fivethirtyeight.com/datalab/france-has-a-history-of-anti-semitism-and-islamophobia.

This ruling overturned a decision by Marseille's local administrative tribunal, which had halted construction following complaints from area residents and businesses who argued that the mosque "did not fit with the surrounding urban environment."[106] As a compromise to the community, the mosque ultimately decided to use a flashing blue light rather than a *muezzin* to issue the call to prayer.[107]

As of 2015, there were more than 2000 "prayer rooms" registered in France with only a small number of those qualifying as an actual mosque. Muslim religious leaders claim that French officials often reject applications for new construction projects which contributes to overcrowding in existing mosques and overflow into public streets.[108] Some leaders have asked for twice as many Muslim houses of worship.

In the aftermath of the recent terrorist attacks, Rather than focus on pursuing individual prosecutions against those responsible for criminal wrongdoing, French authorities continue to raid and close mosques viewed as sources of violent extremism. In fact, at least twenty (20) have been shut down since December 2015; alternatively, the government could have pursued individual prosecutions against those responsible for criminal wrongdoing. Most recently, in 2016, a new law proposed by Prime Minister Valls would prohibit foreign funding although other houses of worship are subject to no such restriction.

3. Employment Discrimination

French Muslims experience high rates of unemployment, and struggle to find full-time, long-term employment.[109] A 2010 Stanford study confirmed that French Muslims confront high levels of employment discrimination, with their Christian peers receiving two-and-a-half more opportunities than equally qualified Muslim candidates.[110] More recent research, published in 2015, confirms that employers are much less likely to contact Muslim job applicants than their Jewish and Catholic counterparts. Moreover, men are less likely to be contacted than women—only 5 percent of Muslim men received interview requests. Interestingly, these men experienced less discrimination when they signaled that they are "secular."[111] Other findings suggest that those who are employed are concentrated in the least qualified

106. See Mar*seille Mega-Mosque Gets Go-Ahead*, France24 (Jun. 19, 2012), *available at* http://www.france24.com/en/20120619-marseille-mega-mosque-gets-appeals-court-go-ahead.
107. See *France Makes Way for New Mega-Mosque*, Al Arabiya News (May 20, 2010), *available at* http://www.alarabiya.net/articles/2010/05/20/109111.html.
108. See David Chazan, *Demand for More Mosques in France Raises Tension*, Telegraph (Apr. 6, 2015), *available at* http://www.telegraph.co.uk/news/worldnews/europe/france/11518106/Demand-for-more-mosques-in-France-raises-tension.html.
109. See Laila Lalami, *Why we must resist simple explanations of the Charlie Hebdo massacre*, The Nation (Jan. 10, 2015), *available at* http://www.thenation.com/article/194593/why-we-must-resist-simple-explanations-charlie-hebdo-massacre.
110. See *Identifying barriers to Muslim integration in France* (Oct. 20, 2010), *available at* http://claire.adida.net/uploads/1/2/6/5/12650228/alvpnaspublication.pdf.
111. See *New research shows that French Muslims experience extraordinary discrimination on the job market,* The Washington Post (Nov. 23, 2015), *available at* https://www.washingtonpost.com/news/monkey-cage/wp/2015/11/23/new-research-shows-that-french-muslims-experience-extraordinary-discrimination-in-the-job-market.

professional positions (i.e. factory work, construction, automotive industry). And, on the job, workplace discrimination persists, and women who practice the hijab were more likely to encounter anti-Muslim bias. [112]

In 2008, for example, a young French Muslim woman was terminated at a private nursery, Baby Loup, after refusing to remove her headscarf. The private employer cited an internal policy prohibiting conspicuous religious symbols. Fatima Afif challenged the legality of her termination in court. In March 2013, one of France's highest courts ruled that Afif had suffered religious discrimination explaining that private employers *that do not perform a public service* cannot impose general policies prohibiting religious attire. The court then sent the case back to a lower court. The lower court picked up on the newly articulated "public service" exception and found that Baby Loup was a business with a "public service mission." As such, the court found, it was entitled to restrict its employees' attire. Afif attempted to challenge the finding but the higher court threw out her case last summer.

If French courts have varied on the merits of Ms. Afif's claims, French politicians were remarkably steadfast in their support of Baby Loup. Many politicians consistently sounding the refrain that religious neutrality and secularism were particularly important in nurseries and childcare facilities due to the impressionability of young children. President Hollande, for example, responded to the Baby Loup controversy by calling for new public laws limiting the wearing of the headscarf in private childcare facilities and reactivating the Observatory on Secularism to devise such legislation.[113] Françoise Laborde, a sitting senator on the Observatory on Secularism, stated that headscarf bans existed to protect the youth and argued for the remarkably commonly-made French assumption that wearing the headscarf is rarely, if ever, the result of free choice. Making a rather dramatic comparison, Ms. Laborde stated, "In a way, it's the same question as prostitution. There are some choices which are non-choices."[114]

Throughout the Baby Loup controversy, calls for extending the headscarf ban to cover private employees reached an all-time high. The regional daily paper, *Ouest-France*, reported that 84 percent of French citizens polled during the Baby Loup affair opposed the wearing of headscarves by employees of private businesses that dealt frequently with the public. Additionally, 83 percent supported a blanket ban on religious clothing or symbols in *all private businesses*.[115] Although far right parties are responsible for some of the agitation about the headscarf in France, the Baby Loup affair demonstrated that support for the bans is widespread and not centred on any one political party. Indeed, even a majority of supporters of the highly liberal Socialist Party (77 percent) said they would support a ban on religious symbols in

112. See *Muslims in EU: Cities Report, France*, Open Society Foundation (2007), *available at* http://www.opensocietyfoundations.org/sites/default/files/museucitiesfra_20080101_0.pdf.
113. See Angelique Chrisafis, *France's Headscarf War: 'It's an Attack on Freedom*, *supra* 1.
114. *Ibid*.
115. See Dan MacGuill, French Back a Ban on Religious Symbols at Work, The Local (Mar. 25, 2013), *available at* http://www.thelocal.fr/20130325/veil-polls-ban-religious-symbols-french#.

private businesses.[116] In fact, following the Baby Loup affair, one private French recycling company, Paprec, actually implemented such a ban. Paprec is the first private non-childcare-oriented company to institute such a ban, and although many French legal scholars argue that Paprec's policy is clearly unconstitutional, no case has yet been brought against the company.[117]

More recently, in 2015, the European Court of Human Rights, an international court responsible for enforcing the European Convention on Human Rights, upheld a public hospital's decision not to renew an employment contract because the employee refused to remove her *hijab*. In *Ebrahimian v. France*, the Court found unanimously that the Muslim woman's freedom of religion, protected by Article 9 of the Convention, had not been violated by her employer's actions. Article 9 provides in relevant part:

> 1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
>
> 2. Freedom to manifest one's religion or beliefs shall be subject only to 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.[118]

The decision was based, the Court reasoned, on the necessity of protecting the rights and religious freedoms of others, specifically hospital patients, from undue religious influence while citing the requirement that the public employee, in this case a social worker, observe "neutrality" pursuant to the "principle of secularism" set forth in the French Constitution. The Court was unconvinced by Ms. Ebrahimian's arguments that freedom of religion encompassed her human right to manifest her religion by donning a *hijab*, including in the workplace.

4. Discrimination in Schools

France currently maintains two national bans on Muslim dress in public life: the first prohibits the wearing of headscarves in public schools and the second proscribes the wearing of *burqas* in all public spaces. The headscarf ban derives from a 2004 religious neutrality law, sometimes referred to as France's "Secularity Law" or the "Law on Secularity and Conspicuous Religious Symbols" (officially Law 2004-228). This law bans the display of ostentatious religious symbols in educational settings. While small crosses and Star of David necklaces are permitted, larger jewelry

116. *Ibid*.

117. Legal scholars distinguish private business bans like Paprec's from France's school-wide ban, arguing that the government's headscarf ban is aimed at protecting the free choice of impressionable young children, while private businesses like Paprec can make no such claim. *See* Joshua Melvin, *French Firm Bans Muslim Headscarves at Work,* The Local (Feb. 11, 2014), *available at* http://www.thelocal.fr/20140211/french-company-bans-muslim-headscarves.

118. See Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedom*s, as amended by Protocols No. 11 and No. 14, June 1, 2010, *available at* http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm.

and religious headgear (including Muslim *hijabs*, Sikh turbans, and Jewish *kippahs*) are not allowed. The exemptions, which seem to favor French Christians, as well as the law in general, have been a source of considerable tension in France.

Non-uniform applications of the Secularity Law across school districts have only added to the controversy and confusion caused by the prohibition. Although the headscarf ban officially applies only to students, teachers, and school administrators, many institutions have extended it to cover Muslim mothers serving in volunteer or chaperone roles at the school. Partially clarifying the issue, France's Council of State ruled in December 2013 that France's secularism policy does not legally apply to mothers volunteering in an educational capacity. However, the Council went on to say that it would offer extensive deference to school administrators, allowing school leaders to enforce *hijab* bans on mothers if the administrators truly believed that the hijabs would be too 'disruptive.'[119]

Official restrictions on women's religious attire are not restricted to the examples above, however. In 2015, school officials expelled a 16-year-old from class in an eastern Paris suburb due to her choice of attire: a long skirt. The long skirt, while acceptable when worn by a non-Muslim student as a fashion statement, was viewed as an "ostentatious religious symbol" and a sign of one's adherence to Islam.[120] Additionally, while the above referenced 2004 French directive prohibits Muslim religious attire from public classrooms, current Prime Minister Valls recently suggested that France should similarly prohibit Islamic headscarves from universities while citing the majority belief that the Islamic faith is incompatible with French values, as noted in Part I further above.[121]

Legal challenges to the 2004 law have been fruitless in the European context. In 2008, for instance, a young female student challenged the legality of the French prohibition of her headscarf in public school before the European Court of Human Rights (ECHR), an international court responsible for enforcing the European Convention on Human Rights.[122] School officials had expelled the student for her refusal to remove the headscarf.

In *Dogru v. France,* the young student alleged religious discrimination pursuant to Article 9 of the European Convention on Human Rights. Ultimately, the ECHR, based in Strasbourg, France, found in favor of the state restriction, reasoning that religious freedom does not encompass every religiously inspired action and

119. See *France Eases Hijab Ban on School Trips*, Radio France Internationale (Dec. 24, 2013), *available at* http://www.english.rfi.fr/france/20131224-france-eases-hijab-ban-school-trips.

120. See *Muslim Girl Sent Home from School in France over Long Skirt*, EuroIslam News and Analysis on Islam in Europe and North America (May 6, 2016) http://www.euro-islam.info/2016/05/08/muslim-girl-sent-home-from-school-in-france-over-long-skirt.

121. See Angelique Chrisafis,. *French PM Calls for Ban on Islamic Headscarves at Universities*, The Guardian (April 13, 2016), *available at* https://www.theguardian.com/world/2016/apr/13/french-pm-ban-islamic-headscarves-universities-manuel-valls?CMP=edit_2221.

122. See *The Islamic veil across Europe*, BBC News (Jul. 1, 2014), *available at* http://www.bbc.com/news/world-europe-13038095.

that concessions—such as removing one's religious attire—must be made to ensure social harmony in democratic societies.[123]

Previously, the ECHR previously has ruled in favor of official restrictions on teacher-worn headscarves (*Dahlab v. Switzerland, 2001*); opposed student-worn *hijabs* at universities to maintain order and protect the rights of others (*Sahin v. Turkey, 2005*); supported a ban on Sikh turbans as a legitimate means for preserving public order (*Ranjit Singh v. France* and *Jasvir Singh v. France, 2009*); declined to hear cases challenging official restrictions on the construction of minarets (*Ouardiri v. Switzerland* and *Ligue des Musulmans de Suisse and Others v. Switzerland, 2011);* upheld a court's refusal to accommodate the Jewish holidays on account of the public's right to the proper administration of justice and the timely adjudication of cases (*Sessa Francesco v. Italy, 2012);* upheld the French prohibition on the *niqab,* also known as the "burqa ban," in public spaces (*S.A.S v. France*, 2014).

However, the UN Human Rights Committee (UNHRC), responsible for monitoring compliance with the International Covenant on Civil and Political Rights (ICCPR), has starkly divergent views from the jurisprudence above. In *Singh v. France*, a French Sikh student whose high school expelled him after refusing to remove his "conspicuous religious symbol" alleged religious discrimination. French officials initially banned Bikramjit Singh from class because he observed a keski, a small light piece of material, commonly used as a mini-turban, covering the long uncut hair regarded as sacred in the Sikh religion. He was later expelled.

Finding in Signh's favor, the UNHRC found that observing a *keski* is a religiously motivated act, similar to practicing the *hijab*, and not merely a symbol. As such, prohibiting it restricts religious freedom as set forth in Article 18 of the ICCPR. Article 18 states in relevant part,

> "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."

The UNHRC found in Singh's favor. French restrictions violate Article 18.

B. *United Kingdom*

1. Hate Crimes

Religiously motivated hate crimes have been on the rise at least since 2013 when self-identifying Muslims murdered British soldier Lee Rigby.[124] That same year, there were 193 anti-Muslim hate crimes reported, including a murder and ten

123. See Nicole Atwill, *European Court of Human Rights: French Ban on Headscarves in Sports Cases Upheld*, Library of Congress (Dec. 16 2008), *available at* http://www.loc.gov/law/foreign-news/article/european-court-of-human-rights-french-ban-on-headscarves-in-sports-classes-upheld.

124. See *Fire damages another Islamic site in Sweden*, The New York Times (Dec. 30, 2015), http://www.nytimes.com/2014/12/30/world/europe/fire-islamic-worship-center-sweden.html?_r=0.

attacks against mosques.[125] More recently, from July 2014 to July 2015, there were more than 800 anti-Muslim bias crimes against Muslims in London, alone. This represents a 70 percent increase in such attacks. By November 2015, when the terror attacks in Paris occurred, there were 878 reported anti-Muslim attacks in London.

Research shows that Muslims were twelve times more likely to be victimized by a hate crime than their Christian counterparts, and they are the primary victims of hate crimes that target a specific religion.[126] According to research from the Association of Chief Police Officers, fifty to sixty percent of all reported hate crimes in Great Britain are perpetrated against Muslims.[127]

Anti-Muslim hate crimes disproportionately impacts British Muslim women who reportedly experience verbal threats of violence and insults on a daily basis while occupying public spaces such as public transportation.[128] One British Muslim spokesperson stated, "The head scarf essentially symbolizes that this person is a Muslim. If there was a person not wearing a scarf or [if it was] even a male, [they] have got a less chance of being targeted or even spoken to disrespectfully."[129] In addition to suffering physical assaults, Muslim women are commonly threatened to "get out of the country" and they are victims of physical intimidation.[130] Representative of such incidents is a gendered anti-Muslim attack at a London university where the perpetrators—two men ages 39 and 41—forcibly removed a woman's niqab or face veil. Other Muslim students participating in an Islamic awareness event were suffered anti-Muslim slurs.[131]

Additionally, acts and threats of violence against Muslims and immigrants increased—by at least 57 percent—in the wake of Brexit, the country's decision to depart the EU to manage the economy and immigration.[132] The United Nations recently attributed this rise in violence to xenophobic political rhetoric that accompanied the referendum. The UN Committee on the Elimination of Racial Discrimination stated, "Many politicians and prominent political figures not only failed to condemn it but also created and entrenched prejudices, thereby emboldening individuals

125. See *"United Kingdom:" U.S. State Department Report on International Religious Freedom*, 2014, http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper. In Britain, plans to build Europe's biggest mosque in London were scrapped in January 2010, after some 250,000 people petitioned the government to prevent the project from moving forward.
126. *Hate Crimes England and Wales 2014/15*, UK Home Office (Oct. 13, 2015), *available at* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/467366/hosb0515.pdf.
127. See *Baroness Warsi: Fewer than one in four people believe Islam is compatible with British way of life*, The Independent (Jan. 24, 2013), http://www.independent.co.uk/news/uk/home-news/baroness-warsi-fewer-than-one-in-four-people-believe-islam-is-compatible-with-british-way-of-life-8464026.html.
128. See Iman Abou Atta, *"Forgotten Women: The Impact of Islamophobia on Muslim Women in the United Kingdom* (May 2016), *available at* http://enar-eu.org/IMG/pdf/factsheet-uk-final.pdf.
129. See *id*.
130. See *id*.
131. See Mark Chandler, Muslim Woman 'has Face Veil Ripped off in Racist Attack, Evening Standard (Mar. 05, 2016), *available at* http://www.standard.co.uk/news/crime/muslim-woman-has-face-scarf-ripped-off-in-racist-attack-outside-london-university-a3196501.html.
132. See *Spike in Hate Crime and Racial Abuse Post-Brexit*, Middle East Eye (Jun. 27, 2016), *available at* http://www.middleeasteye.net/news/spike-hate-crime-and-racial-abuse-post-brexit-432166116.

to carry out acts of intimidation and hate towards ethnic or ethno-religious minority communities and people who are visibly different."[133]

2. Mosques

As anti-Muslim sentiment continues to rise, so does opposition to mosque construction projects. In 2010, plans to construct Europe's largest mosque in London were abandoned after some 250,000 people petitioned the government in protest.[134] More recently, in 2015, a number of demonstrations were coordinated, frequently by far-right activists, to protest the development of new mosques as well as to express disapproval of those already in existence.[135] That same year, then Prime Minister Cameron announced a new proposal that would close some mosques, rather than prosecuting individuals responsible for criminal wrongdoing, in a bid to counter violent extremism.[136]

As in many European countries, the Muslim call to prayer has been a source of tension in the U.K. In 2008, for example, the Oxford Central Mosque backed off talk of broadcasting daily calls to prayer after it received significant backlash from the area's non-Muslim community.[137] This backlash was strong enough to keep the community from pursuing its plans. Notably however, the community did receive support from other religious groups of different faiths, including the Bishop of Oxford, Rt. Rev. John Pritchard. Speaking to local residents, Rev. Pritchard told the mosque's opponents to "relax and enjoy our community diversity."[138] Despite Rev. Pritchard's exhortation, the Oxford Central Mosque ultimately decided not to pursue plans for the call and later stated that they would never have made an official proposal without first consulting the broader Oxford community.[139]

3. Employment Discrimination

British Muslims struggle with unemployment rates two to three times higher than the national average for both women and men, respectively.[140] The unemployment rate is 5.4 percent nationally, and 12.8 percent for British Muslims. According

133. *Politicians fuelled rise in hate crimes after Brexit vote, says UN body*, The Guardian (Aug. 26, 2016), https://www.theguardian.com/politics/2016/aug/26/politicians-rise-hate-crimes-brexit-vote-un-committee.
134. See Soeren Kern, *Europe's Mosque Wars* (Gatestone Institute Aug. 18, 2010), *available at* http://www.gatestoneinstitute.org/1476/europe-mosque-wars.
135. See Arzu Merali*, Islamophobia in United Kingdom: National Report 2015* (SETA, 2016), *available at* http://www.islamophobiaeurope.com/reports/2015/en/EIR_2015.pdf.
136. See, e.g., *Britain announces harsh new anti-terror laws that include shutting down mosques*, Think-Progress (Oct. 19, 2015), *available at* https://thinkprogress.org/britain-announces-harsh-new-anti-terror-laws-that-include-shutting-down-mosques-a0b636a796cd#.re79tvtpm.
137. See Andy McSmith, Clash of Cultures: The Screaming Minarets of Oxford, The Independent (Jan. 25, 2008) *available at* http://www.independent.co.uk/news/uk/this-britain/clash-of-cultures-the-screaming-minarets-of-oxford-773879.html.
138. *Ibid*.
139. See *Mosque Denies Call-to-Prayer Plan*, *BBC News* (Apr. 12 2008), *available at* http://news.bbc.co.uk/2/hi/uk_news/england/oxfordshire/7343986.stm.
140. See *Muslims in EU: Cities Report, United Kingdom*, Open Society Foundation, 2007, http://www.opensocietyfoundations.org/sites/default/files/museucitiesuk_20080101_0.pdf.

to 2016 research, Muslims struggle with the highest unemployment levels of all religious and ethnic groups in the UK.

Additionally, Muslim women were found to be the most economically disadvantaged group and described as confronting a "triple penalty" due to their religion, ethnicity and gender. The group is 71 percent more likely to be unemployed than Christian counterparts with the same language skills and educational levels.

Notably, employed Muslims are commonly concentrated in the low skill labor market (i.e. taxi drivers, waiting staff, security guards, machine operatives, etc.) thus undermining socio-economic advancement and integration.[141]

4. Discrimination in Schools

Muslim headscarves and Sikh turbans are generally allowed in the classroom following a 1983 decision by the House of Lords which found a prohibition to amount to racial discrimination. In 2006, however, the House of Lords rejected the claim of a student who wanted to wear a *jilbab,* a traditional full-length outer garment worn by some Muslim women*,* to a school with an otherwise accommodating dress code. Other courts have upheld school bans on a student's *niqab*, a teaching assistant's *niqab*, and a chastity ring. Additionally, in 2007, the UK Department for Children, Schools and Families established general guidelines on the issue, stating that schools should act reasonably in accommodating religious requirements, but can prohibit the *niqab*.

C. *Germany*

1. Hate Crimes

The number of racially motivated attacks is higher than any year since the end of World War II.[142] The rise in these hate crimes can be attributed, in part, to both the rise in immigration and as such the rise in anti-immigrant sentiments, particularly against Muslim and Africans. In 2015, as Germany took in more than 1 million asylum seekers, there were more than 1,000 attacks on asylum shelters; notably, 199 such attacks occurred in 2014. Recent rhetoric by members of the far-right German political party Alternative for Germany (AfD), in particular, may contribute to these hate crimes, as the group's leader exhorted officers to "use firearms if necessary" to prevent illegal entry into the country. From 2013 to 2015, racially motivated crime increased by 87 percent.[143]

While Germany does not track hate crimes, research suggest that religiously motivated bias crimes against Muslims have also risen.[144] In recent years, German

141. See *id*.
142. See *Germany failing to deal with surge in hate crimes*, Aljazeera, (Jun. 2016), http://www.aljazeera.com/news/2016/06/germany-failing-deal-surge-hate-crimes-160610044336990.html.
143. See *Institutional Racism to Blame in Spike of Hate Crimes in Germany*, RT (Jun. 9, 2016), https://www.rt.com/news/346023-amnesty-germany-migrants-racism.
144. See Germany in Flames, Ziet Online, Dec. 4, 2015, http://www.zeit.de/politik/deutschland/2015-11/anti-immigrant-violence-germany; see also, *Germany Sees Rise in Crimes Against Refugees*,

authorities have arrested several members of right-wing extremist organizations for both planned and executed anti-Muslim attacks. In May 2015, for example, four leaders of the newly created extremist "Old School Society," were arrested in possession of explosives. The group had allegedly planned to use the explosives to attack local mosques, refugee shelters and Muslims.[145] Leaders of the extremist National Socialist Underground are also currently on trial for the murders of ten people, primarily of Turkish heritage, between 2000 and 2007. Until the murder-suicide of two of the group's founders in 2011, these murders had been blamed on the immigrant community and had been widely regarded as the result of internal gang fighting, rather than anti-Muslim hate crimes.[146]

2. Mosques

There are about 200 "prayer rooms" in Germany. The majority of Islamic associations are registered and funded by fees and donations; some receive foreign funding. Germany has no legal restrictions on mosques; however, political opposition has often put pressure on Muslims to make various concessions regarding the visibility and prominence of their houses of worship. For example, a mosque constructed in Pforzheim was allowed to install a minaret only on the condition that it would be shorter than the nearest church steeple.[147] Additionally, in 2007, the Muslim community of Cologne attempted to curtail controversy by compromising with zoning regulators and agreeing not to broadcast its calls to prayer over a loudspeaker.[148] Conflicts over mosque construction projects are not a recent phenomenon, however. In 1997, the Mayor of Garmisch-Partenkirchen received threats to his life after he spoke out in favor of mosques.

More recently, the Alternative for Germany (AfD), a far-right German party, adopted a party program that proposed banning Islamic symbols and restricting religious practices of Muslims.[149] In addition, the program called for a ban on mosque minarets and muezzins' calls to prayer.[150] There are controversies over the question whether the Muslim muezzin's call to prayer is legally on par with the ringing of church bells. A certificate approved and published by the Federal Designee of Foreigners in 1997 and another certificate approved by the German Municipal and

Aljazeera (Dec. 7, 2015), http://america.aljazeera.com/articles/2015/12/7/germany-sees-rise-in-crimes-against-refugees.html.

145. See *Germany Arrests Four in Alleged Anti-Islam Plot*, Al Jazeera, (May 6, 2015), http://america.aljazeera.com/articles/2015/5/6/german-arrests-in-alleged-anti-islam-plot.html.
146. See Rick Noack, *In Germany, Are Anti-Muslim Terrorists the Real Threat?*, *The Washington Post* (May 9, 2015), https://www.washingtonpost.com/news/worldviews/wp/2015/05/09/in-germany-are-anti-muslim-terrorists-the-real-threat.
147. See Stefano Allievi, Conflicts over Mosques in Europe: Policy Issues and Trends, *Network of European Foundations Initiative on Religion and Democracy in Europe* 46 (Alliance Publishing, 2009), *available at* http://www.uclouvain.be/cps/ucl/doc/espo/documents/Religion_mosques.pdf.
148. See Mark Landler, *Germans Split over a Mosque and the Role of Islam*, *supra* note 1.
149. See Ayhan Şimşek. *Germany: Far-right Party Adopts Anti-Islam Program*, The Muslim News (May 2, 2016), *available at* http://muslimnews.co.uk/news/islamophobia/germany-far-right-party-adopts-anti-islam-program.
150. *Ibid*.

Communal Federation both recommend the equal treatment of church bells and the muezzin call and have come to the conclusion that the muezzin's call is also part of the constitutional right of worship.

In Germany, Muslims have complained about increasing hate crimes against mosques.[151] From 2012 to 2014, there have been more than 70 attacks against mosques.[152] During the summer of 2015, arson attacks were suspected in three distinct locations.[153] Such violence may have a chilling effect on congregants' religious belief practices.

3. Employment Discrimination

It can be difficult for German Muslims to secure employment due to their religion and ethnicity. Those who successfully enter the labour market, grapple with employment discrimination at work including denial of religious accommodation requests (i.e. observing Friday congregational prayer or the hijab). [154]

There is no national law in Germany restricting the wearing of headscarves. Research demonstrates, however, employer bias against recruiting prospective employees who observe the Islamic headscarf. One study found that while job applicants with authentic German surnames received interview requests from 18 percent of companies, only three percent of businesses extended similar invitations to applicants who observed a headscarf.[155]

In 2003, the Federal Constitutional Court ruled that teachers could wear headscarves, as this did not in principle impede the values of the Constitution, but that individual states were free to prohibit public school teachers from wearing headscarves as they saw fit within their own borders. Bans on religious symbols worn by teachers must have a statutory basis.[156] Thus, since 2003, a number of states passed their own legislation prohibiting religious symbols. At least half of Germany's 16 states went on to ban teachers from wearing headscarves and in the state of Hesse, the ban applies to all civil servants.[157]

The 2015 Federal Constitutional Court overturned that 2003 decision. The Court argued that, contrary to its 2003 position, such bans violated Germany's

151. See *Germany: U.S. State Department Report on International Religious Freedom* (US Department of State 2014), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper.
152. See *In Sweden, the land of the open door, anti-Muslim sentiment finds a foothold,* The New York Times (Jan. 3, 2015), http://www.nytimes.com/2015/01/03/world/in-sweden-the-land-of-the-open-door-anti-muslim-sentiment-finds-a-foothold.html?_r=0.
153. See *Fire damages another Islamic site in Sweden*, The New York Times (Dec. 30, 2014), http://www.nytimes.com/2014/12/30/world/europe/fire-islamic-worship-center-sweden.html?_r=0.
154. See *Muslims in EU: Cities Report, Germany,* Open Society Foundation (2007), http://www.opensocietyfoundations.org/sites/default/files/museucitiesger_20080101_0.pdf.
155. Asmaa Soliman, *The Impact of Islamophobia on Muslim Women in Germany Key Findings* (May 2016), *available at* http://enar-eu.org/IMG/pdf/factsheet_germany_-_en_final.pdf.
156. See Michael Wiener, *Prohibition of Wearing Religious Symbols* (Jan. 19 2006), https://www.uni-trier.de/fileadmin/fb5/inst/IEVR/Arbeitsmaterialien/Staatskirchenrecht/International/ReligiousSymbols.pdf.
157. See Viviane Teitelbaum, "The European Veil Debate," Israel Journal of Foreign Affairs V : 1 (2011), http://www.israelcfr.com/documents/5-1/5-1-5-VivianeTeitelbaum.pdf.

constitutional religious liberty protections and could not be supported on vague theories regarding the "abstract risk" of headscarves. Rather, religious freedom protections could be subordinated only in cases where religious symbolism or attire was shown to pose a "concrete danger."[158]

The case arose in the German state of North-Rhine Westphalia, where two school teachers contested a religious symbols ban that prohibited Muslim headscarves while exempting "Christian and Western educational and cultural values or traditions."[159] The Court held that the ban represented both an infringement of the right to religious free exercise as well as a violation of the constitution's religious non-discrimination protections.[160]

4. Discrimination in Schools

In October 2011, the German Federal Administrative Court ruled that a Muslim student could not perform his midday prayers on school property. The Court argued that the prayers, even performed outside of class time, presented a security risk and were too disruptive to the school's routine. In support of its finding, the Court cited the fact that the school included students from many different faith backgrounds and that some conflicts had previously broken out between students of differing Muslim sects over the precise Quranic requirements for the prayers.[161]

The decision overturned the ruling of a lower administrative court in Berlin, which had upheld the student's right to pray. In the interim between appeals, the school had agreed to provide the student with an unused classroom for break-time prayers, although it discontinued this practice following the higher court's ruling. Notably, the lower court ruling had aroused significant criticism, especially from political leaders espousing strong integration policies. For example, members of the Christian Democratic Union, the Social Democratic Party, and the Greens had all spoken in opposition to the student's public religious activity and argued that giving him the right to pray in school would impede integration efforts.[162]

In addition to concerns about the integration of Muslim students, much of the opposition to the lower court's ruling seems to have come from the public nature of the prayers. For example, Professor Tilman Nagel, who testified at the hearings, argued that Muslim prayers in school are more disruptive than Christian ones,

158. See Timothy Jones, *Constitutional Court Strikes Down Absolute Headscarf Ban*, Deutsche Welle, (Mar. 13, 2015) available at: http://www.dw.com/en/constitutional-court-strikes-down-absolute-headscarf-ban/a-18313377. For additional context and discussion of Germany's human rights obligations, *see Discrimination in the name of neutrality*, Human Rights Watch (Feb. 26, 2009) https://www.hrw.org/report/2009/02/26/discrimination-name-neutrality/headscarf-bans-teachers-and-civil-servants-germany.

159. *See In Germany, High Court Overturns Headscarf Ban for Teachers*, Huffington Post (Mar. 13, 2015), available at: http://www.huffingtonpost.com/2015/03/13/germany-headscarf-ban_n_6863336.html.

160. Ibid.

161. See Frabrizio Bensch, *German Court Rules Muslim Pupil Cannot Pray at School*, Reuters (Dec. 1, 2011), available at: http://in.reuters.com/article/2011/11/30/germany-prayer-idINDEE7AT0JR20111130.

162. See Justus Leicht, *Berlin Court Bans Islamic Prayer in Schools*, World Socialist Web Site (Jun. 5, 2010), available at: http://www.wsws.org/en/articles/2010/06/berl-j05.html.

as midday prayers are usually performed in a group rather than by individuals in silence.[163] However, on this rationale, the Federal Administrative Court's decision must have been somewhat surprising, as earlier German courts had been remarkably receptive to group prayer in school. Most strikingly, in 1979, the German Constitutional Court even allowed Christian prayers to be spoken out loud *during class time* at the suggestion of the presiding teacher.[164]

More recently, on the subject of Muslim religious practices, the Technical University of Dortmund closed down a 'room of silence', which was used for reading, relaxation, and mediation.[165] The closing of the room followed growing usage of the space as a prayer room by Muslim students. Eva Prost, the university's spokeswoman, asserted that "As a public institution we are bound by the Basic Law, which demands equal treatment of men and women; this is what we must defend and therefore we cannot tolerate such a gender segregation."[166] Prost was referring to Muslim prayer spaces are typically segregated by gender in conformance with Islamic standards of modesty and to prevent distractions at the time of worship.

D. *Netherlands*

1. Hate Crimes

In 2015, there were between 136 and 158 bias incidents reported against Muslims. Approximately 90 percent of these attacks victimized Muslim women wearing headscarves.[167]

2. Mosques

In 2015, there were 28 reported attacks against mosques in the Netherlands, and recently Dutch Muslims have reported dozens of threatening letters sent to Dutch mosques.[168] Twenty-seven incidents occurred in nineteen mosques in a number of municipalities in various parts of the country. Stones, paint and stink bombs were thrown at mosques, pigs´ heads left behind and threatening letters sent. A far-right extremist group occupied two mosques and another mosque was attacked in a shooting.[169]

In the past decade, more than one-third of the country's 475 mosques have experienced a hate crime such as vandalism, attempted arson or the placement of

163. See *German Court Backs Ban on School Prayer*, Al Jazeera (Nov. 30, 2011), available at: http://www.aljazeera.com/news/europe/2011/11/201111301722249814 50.html.
164. See Leicht, "Berlin Court Bans Islamic Prayer in Schools," *supra* note 26.
165. *See Controversy Surrounding 'room of Silence' at German University*, EuroIslam News and Analysis (Feb. 25, 2015), http://www.euro-islam.info/2016/03/01/controversy-surrounding-room-of-silence-at-german-university.
166. *Ibid*.
167. See *id*.
168. See *Turkish Mosque Vandalized in the Netherlands*, Daily Sabah (June 25, 2016), http://www.dailysabah.com/nation/2016/06/25/turkish-mosque-vandalized-in-the-netherlands.
169. See Ineke van der Valk (2016): Islamophobia in Netherlands: National Report 2015, in: Enes Bayraklı & Farid Hafez, European Islamophobia Report 2015, Istanbul, SETA, 2016. http://www.islamophobiaeurope.com/reports/2015/en/EIR_2015.pdf.

pigs' heads.[170] The attacks frequently occur in response to national or international events[171] and are certain to have a chilling effect on the free exercise of religion. However, law enforcement agents commonly register such incidents as "insults" or "destruction of property,"[172] as opposed to a religiously motivated bias crime thus highlighting the necessity of appropriate protocols, regulations and training.

In 2016, the far-right Freedom Party, led by Geert Wilders, announced a political platform that included mosque closures to reverse the so-called Islamization of the Netherlands. The party also supports a referendum for the country to leave the EU similar to the British Exit.

3. Employment Discrimination

Research suggests both direct and indirect employment discrimination involving the selection process of prospective employees as well as workplace relations.[173] In the employment setting, there is intolerance towards the hijab, prayer and Muslims in general.[174] Research evidence shows, however, that women filed 76 percent of religious employment discrimination claims between 2004 and 2006. More than one half relate to recruitment and selection while other claims include discriminatory jokes, derogatory insults and social exclusion by co-workers, managers or customers.[175]

4. Discrimination in Schools

Courts apply a case-by-case approach to religious symbols and have repeatedly stated that headscarves may be banned from the public sphere only on narrow grounds, including security or real inconsistency with official government uniform. The Ministry of Education issued guidelines in 2003, specifying that the aim of any policy restricting religious symbols must be legitimate, appropriate means must be used, and the means must be necessary to achieve that goal. In 2007, five private schools in the country's "Bible Belt" prohibited students from observing the Islamic headscarf. Dutch officials indicated that this was permissible because specialized schools may preserve their identity. In 2011, a Dutch court upheld a similar ban by a private Catholic school for these reasons after a Muslim female student sued her school. More recently, in May 2015, the government enforced a prohibition against face veils or *niqab*. Muslim women are not permitted to wear the *niqab* in schools, hospitals, and on public transportation.

170. See *Dutch Muslims concerned by mosque attacks*, Al Jazeera (Dec. 26, 2014), http://www.aljazeera.com/indepth/features/2014/12/dutch-muslims-concerned-mosque-attacks-20141226131025788306.html.
171. See *id*.
172. See *id*.
173. See *Muslims in EU: Cities Report, The Netherlands*, Open Society Foundation, 2007, http://www.opensocietyfoundations.org/sites/default/files/museucitiesnet_20080101_0.pdf.
174. See *id*.
175. See Mariska Jung, *Forgotten Women: The Impact of Islamophobia on Muslim Women in the Netherlands,* (May 2016),. http://enar-eu.org/IMG/pdf/factsheet_netherlands_-_en_final.pdf.

E. *Sweden*

1. Hate Crimes

In 2013, there were approximately 300 reported anti-Muslim hate crimes. Between 2010 and 2014, anti-Muslim attacks in Sweden increased by 81 percent. Hate crimes remain under-reported for a variety of reasons including persistent skepticism that authorities will pursue appropriate action.[176] Significantly, most hate crimes target women who are conspicuously Muslim (i.e. practicing *hijab*).[177] Anti-Muslim bias offenses also targeted communal property, such as mosques.[178] In fact, in 2016, 66 percent of mosques were subject to vandalism, arson, or bomb threats, a 26 percent increase from 2011 when approximately 40 percent of mosques suffered such attacks.[179]

2. Mosques

According to statistics compiled in 2006, there are only 26 purpose built mosques and most Muslims worship in "basement mosques."[180] While few mosques exist, those that do are subject to attack. During a one-month period, immediately prior to the 2015 attack against *Charlie Hebdo*, a number of Swedish mosques were targeted in a series of highly publicized hate crimes.[181] The violence has resulted in more than half a dozen Swedish Muslims sustaining injuries and with at least one person in critical condition.[182]

In the aftermath of that terrorist attack, another Swedish mosque received a bomb threat with the caller stating, "the mosque is soon going to blow."[183] To be certain, hate crimes against mosques has a chilling effect on Muslims' free exercise of religion because they may opt out of attendance due to fear of harm or injury to themselves or their family members.[184]

Interestingly, Swedish Muslim leaders characterize such violence as a culmination of anti-Muslim sentiment that has spanned years. Such anti-Muslim bias includes instances where women's headscarves have been violently removed, more

176. See Muslims in EU: Cities Report Sweden (Open Society Foundation 2007), http://www.opensocietyfoundations.org/sites/default/files/museucitiesswe_20080101_0.pdf.
177. See *Sweden: U.S. State Department International Religious Freedom Report*, 2014, http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper.
178. See *id*.
179. David Karlson, http://5pillarsuk.com/2015/01/12/the-rise-of-islamophobia-and-the-far-right-in-sweden.
180. See *id*.
181. See *Swedish mosque 'love bombed' after attack*, Al Jazeera (Jan. 2, 2015), http://m.aljazeera.com/story/2015125290103712.
182. See *Injuries in suspected arson of Swedish mosque*, Al Jazeera (Dec. 25, 2014), http://www.aljazeera.com/news/europe/2014/12/injuries-suspected-arson-swedish-mosque-20141225161414287564.html.
183. See *New bomb threat against Swedish mosque*, The Local (Jan. 10, 2015), http://www.thelocal.se/20150110/new-bomb-threat-against-swedish-mosque.
184. See *Injuries in suspected arson of Swedish mosque*, Al Jazeera (Dec. 25, 2014), http://www.aljazeera.com/news/europe/2014/12/injuries-suspected-arson-swedish-mosque-20141225161414287564.html.

than 14 mosques have been vandalized and anti-Muslim discrimination on Facebook and Twitter has proliferated. [185]

3. Employment Discrimination

While the Swedish government does not collect unemployment data disaggregated by ethnicity or religion, other research evidence work related challenges, including difficulties securing employment due to religious affiliation, ethnicity and/or race.[186] Once on the job, religiously motivated harassment and discrimination also constitute problems. [187] Muslims who attempt to practice faith beliefs—such as donning the headscarf, growing a beard or praying—encounter discrimination; most employers disregard requests for religious accommodation.[188]

In February 2013, the Swedish Muslim Organizations network complained that the government did not take discrimination against Muslims seriously. The organization submitted a report to the UN Racial Discrimination Committee with examples of acts of intolerance against Muslims related to anti-terrorism laws and misperceptions of some Muslim religious practices. The examples included a ban on newscasters wearing headscarves on public television and religious-racial profiling in the application of anti-terrorism laws.[189]

4. Discrimination in Schools

According to mandatory directives by the National Education Agency as issued in 2003, schools are allowed to prohibit the *burqa* and *niqab*, provided that they do so in a spirit of dialogue on the common values of equality of the sexes and respect for the democratic principle.[190]

IV. Analysis

Muslims in Europe are often viewed almost exclusively through the lens of national and global security. It behooves us to recall that an enhanced commitment to respecting, protecting and promoting freedom of religion or belief—in conformance with local, national and international legal obligations—will prove critical to the ultimate efficacy of counter-terrorism policies designed to undermine the violent extremist narrative that Western democracies are waging war on Islam. Research evidence shows enhanced religious freedom helps "moderate, contain, counteract, or prevent the origin or spread" of violent religious extremism.[191]

185. See *id*.
186. See *Muslims in EU: Cities Report, Sweden,* Open Society Foundation (2007), http://www.opensocietyfoundations.org/sites/default/files/museucitiesswe_20080101_0.pdf.
187. See *id*.
188. See *id*.
189. *Sweden*, International Religious Freedom Report (US State Department 2013), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper.
190. Michael Wiener, *Prohibition of Wearing Religious Symbols*, (Jan. 19, 2006), https://www.uni-trier.de/fileadmin/fb5/inst/IEVR/Arbeitsmaterialien/Staatskirchenrecht/International/ReligiousSymbols.pdf.
191. *See Religious Freedom and Violent Religious Extremism: A Sourcebook of Modern Cases and*

Each of the aforementioned States has related legal commitments pursuant to the International Covenant on Civil and Political Rights (ICCPR) and other international and regional documents. These commitments require states to protect every individual's human right to believe and to manifest those beliefs through worship, observance and practice, both in the public square and the private sphere.

Often, official restrictions on and social hostilities towards religion begin with negative opinions and perceptions that help legitimize discrimination. It is evident from the findings above that there is often a distinction drawn between sentiments for Muslims and those for the Islamic faith as a whole. France is representative is this respect. Although approximately 80 percent disapproved of what they understood as Islam's gender norms, only 27 percent had a generally negative impression of Muslims.

Similarly, in the UK, while over 80 percent disapproved of what they perceived as Islamic gender norms, only 28 percent held an unfavorable opinion of Muslims. And, in Germany, while two-thirds believe Islam does not belong in Germany, less than one-half of Germans supported a ban on Muslim immigration. This distinction may be due to laws that prohibit hate speech against a religious group, such as Muslims, but not necessarily harsh criticism of a religion, including Islam. Negative viewpoints regarding Islam may help account for discriminatory laws and policies prohibiting Islamic faith practices such as religious attire or worship.

This distinction may also help explain the disparate experiences of individuals (Muslim women who observe headscarves) and institutions (mosques) that represent or symbolize Islam versus others that do not. In the European context, headscarved Muslim women and girls are more likely to suffer victimization on the street, at work and in school. While violence against men and women can be informed by negative stereotypes and perceived threats, violence against Muslim women exists at the intersection of "discrimination against religion and discrimination against women."[192] Violence motivated by bias, at the core, is intended to make its Muslim female victims rethink their visibility and place in society. As a result, Muslim women must decide whether to change their presentation of gender and religion in accordance with "what they recognize as the socially established rules for doing so."[193] Consequently, some Muslim women may change their habits, activities, and appearances to what is deemed socially acceptable. In that process, religious freedom may be compromised or lost in its entirety.

The descriptive analysis above makes plain that three significant trends in religious discrimination: (1) increasing anti-Muslim hate crimes, particularly against women in headscarves and mosques, (2) religious discrimination in employment that is even more pronounced against Muslim women in headscarves and (3) opposition to mosque construction projects. In the UK, Netherlands and France, for instance,

Analysis, Georgetown University (Dec. 2012), http://repository.berkleycenter.georgetown.edu/121205RFPReligiousFreedomViolentReligiousExtremismSourcebookModernCasesAnalysis_lowpercent20res.pdf.

192. *Ibid*.

193. *Ibid*.

anti-Muslim hate crimes disproportionately impacted Muslim women in *hijab*. This is also true of employment discrimination, with Muslim women experiencing barriers to securing work thus rendering the group the most economically disadvantaged members of British society, for instance, notwithstanding a longstanding policy respecting multiculturalism. Mosques are not only subject to physical attacks and threats of violence but Muslim communities continue to grapple with opposition to new construction projects in each of the five societies explored.

These realities, as described above, reveal the gap between legal protections in theory versus what is extended to the Muslim minority community in practice. In theory, each of the countries referenced above have enacted laws that protect the freedom of religion. In practice, however, competing interests sometimes supersede these laws. Several European countries have imposed legal restrictions on religious dress over the past decade, many specifically targeting the Muslim *hijab* and *niqab*. Supporters of these clothing restrictions argue that such regulations are justified by their alleged promotion of state secularism, gender equality, public safety, and immigrant integration. Meanwhile, opponents of these bans decry their suppression of free choice and religious exercise, countering that these clothing restrictions fail to appropriately serve the rationales asserted for them.

For example, the ostensible desire to protect school age children from religious indoctrination has consistently been prioritized over religious freedom where the question of religious attire is in question in France. Swedish schools have banned the face veil or *niqab* citing its commitment to gender equality. Increasingly, schools and universities have become battlegrounds for religious freedom as teachers and students alike are forced to sacrifice sincerely held religious convictions. In Germany, for instance, a university suspended use of public space used by Muslim students for prayer due to an articulated concern about gender equality.

Additionally, the construction of mosques, particularly those with prominent minarets or other 'ostentatious' elements, is often perceived as a political statement of Islamic hegemony or an attempt at cultural dominance, rather than a mere attempt to create a place of worship.[194] Rather than aiding in Muslim integration and assimilation as proponents have suggested, these construction restrictions have often only further exacerbated segregation of the Muslim community, relegating their worship to private and inconspicuous "prayer rooms." This may also contribute to alienation among Muslims.

Statistically speaking, attacks on Muslim citizens tend to increase in the days and weeks following major world events involving members of the faith group. European Muslims are frequently vilified and attacked following international acts of terror involving violent extremists. There appears to be a positive relationship between a nation's economic well-being, or lack thereof, and the growth of populist

194. In the words of German journalist Henryk Broder, speaking on the controversy over the building of a new mosque in Cologne, "A mosque is more than a church or a synagogue. It is a political statement." Mark Landler, *Germans Split over a Mosque and the Role of Islam*, The New York Times, (Jul. 5, 2007), available at: http://www.nytimes.com/2007/07/05/world/europe/05cologne.html?_r=3&pagewanted=all&.

right-wing political parties that scapegoat Muslims and immigrants for society's perceived ills. Individuals may have less motivation to conduct attacks on immigrants and Muslims if their own personal lives have not been affected significantly by political, social or economic challenges.

Finally, the analysis above shows that the influx of immigrants—in 1980s France or more recently in the context of the refugee crises for all of the countries examined here—may also trigger a surge in Islamophobia, revealing European anxieties about the role of Islam and Muslims in the region. Ultimately, however, threats and acts of anti-Muslim violence in a number of European contexts increasingly demonstrate more than a simple sense of dissatisfaction with political, social or economic challenges; rather, they reveal a sense of increasing hatred toward Muslims as a people.

Conclusion

In sum, this article engaged in a descriptive, normative and comparative analysis of contemporary religious freedom challenges confronting Muslims in France, United Kingdom, Germany, Netherlands and Sweden. With few exceptions, it found public perceptions surrounding Islam and Muslims as consistently negative. Despite laws designed to protect religious freedom—from constitutional protections to anti-discrimination legislation—these measures often disappointed Muslim victims and litigants in practice. As a result, anti-Muslim discrimination is somewhat pervasive in all aspects of the employment process; includes increased acts and threats of violence that disproportionately impacts women; and is manifest in opposition to mosque construction projects. A number of factors contribute to European Islamophobia, including an influx in immigration such as the so-called Syrian refugee crises that has left many Europeans fearful of terrorism and job insecurity. Still, official abuses against Muslims continue in the interest of ensuring national and global security while an apparent hatred of Muslims as a people grows.