

Exclusionary Equality: France's State-Feminism and Its Other Women

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Darren Rosenblum, [Sex Quotas and Burkini Bans](#), **92 Tul. L. Rev. 469** (2017).

Feminism in the Global North began as a critical social movement emphasizing the societal oppression and exclusion of women and the inadequacies of the patriarchal state. Since the 1960s, it has evolved into a fragmented constellation of groups and theoretical positions often with deep divergences and seemingly intractable disagreements. One of these disagreements has been about feminism's relationship to the state. Some feminists have traditionally been uncomfortable with and wary of institutional political power. And for good reason. Alliances with a patriarchal state produces only limited success with considerable costs. Other feminists have taken the position that we must take what we can get. In order to improve the lives of women, we must engage the state—become insiders and change the structure from within.

Regardless of how feminists orient to the state, most commonly recognize that state-alliances invariably result in mixed results often with unintended and undesired consequences. Often the gains benefit elite women at the expense of minorities. Furthermore, engagement with the state and the use of state power can present problems if one takes the position that generally feminism is a politics and a project that promotes liberation and equality. For example, the critical feminist literature on mass incarceration points out that the use of criminal law and state apparatus has resulted in the disproportionate incarceration of men of color. This has resulted in serious consequence for women by destroying many families and communities of color. Furthermore, gender neutral applications of criminal law have sometimes led to the policing of women themselves.¹

Darren Rosenblum's essay, *Sex Quotas and Burkini Bans*, is part of this critical literature raising important questions about feminist alliances with and uses of state power in France. Rosenblum's article adds to the literature by exploring state uses of and, indeed, promulgation of a "state feminism." Rosenblum traces the feminist movement for equal political representation (*Parité*). With the passage of *Parité* giving women a 50% quota, the state absorbed the "feminist interest in sex difference and women's equality" making it a core state value. And then, as Rosenblum shows, these ideas "disappear in plain sight." (P. 470.) The state, having incorporated a feminist position on equality, used it to exclude certain categories of women.

The central contribution of the essay is the juxtaposition of Muslim exclusion with elite/mainstream inclusion that demonstrates the way that a patriarchal state can (ab)use feminism. In this case, feminism comes in handy to discipline a beleaguered minority further marginalizing its women through the very language of equality and rights and the construction of freedom itself. The state, with the help of some prominent feminists (and feminist groups like *Ni Poutes, Ni Soumises*), established its feminist credibility through arguing that in order to achieve equality, Muslim women must be assisted out of their patriarchal religion, out of their seclusion behind the veil, and into the public sphere where they can be *seen* to participate.

According to the proponents of the veil ban, the law reflects a commitment to feminist principles. Of course, as Rosenblum notes, there were feminists on the other side of the debates on the headscarf as

well. These outsider feminists pointed out the irony of being forced into the state's notion of freedom and the oddity of having liberty defined and imposed. Muslim women are required to conform as a condition of belonging even while their unsurmountable difference is used to exclude them from the mainstream. "Unenumerated Muslim minorities remained subject to socio-economic exclusion *and* restrictions on their self-expression." (P. 481.)

Having successfully absorbed and deployed the feminist arguments about *Parité*, the state then consolidated its commitment to what I would call "exclusionary equality."

The CBQ's [corporate board quota] passage marks a historical moment when feminist ideas of women's inclusion became such a fundamental part of public norms that feminists were not needed to make the argument: it was feminist influence rather than feminist activism. As feminist ideas disappeared in plain sight with the veil and burqa debates, here they became intrinsic to the very definition of French democracy. After the CBQ, related regulations advanced sex equality throughout French elites in government, education, and other areas of society (P. 486.)

Politicians like Nicolas Sarkozy were able to assert their brand of feminism promoting women into the rarified circles of capitalist power while controlling the bodies of marginalized minority women "for their own good." In other words, as Rosenblum shows, state feminism is used to legitimize both inclusion and exclusion in a coordinated double-move.

In the final section of the essay, Rosenblum connects the earlier arguments regarding the headscarf/burqa to the more recent attempts at banning the burkini. The state, now well practiced in the art of deploying feminist equality arguments, extended these to the burkini—a body-covering swim garment worn by a small minority of Muslim women beachgoers. The very substance and content of what it means to be a *free French woman* is determined by dominant *franco-francais* gender norms and performance. Both the state and the feminist proponents of Muslim dress bans came together to reprise the arguments about the meaning of the headscarf, the burqa, and the burkini. Resolving all longstanding debates among Muslims, they imposed their own meaning of these garments in essentialist and immutable terms: to cover is to be oppressed. For some feminists, the use of state power, the adoption, of feminism by the state was a victory in the march to women's equality. But for those Muslim women who wear headscarves or burkas and on whose bodies the debates played out, it was not liberty or freedom that was experienced but oppression.

Rosenblum's essay reminds us that there are costs when feminism becomes institutionalized and part of the state. State feminism has its own agenda that may reflect only a small, elite, set of feminist goals. And achieving these goals may exacerbate the divisions among different groups of women. In France, exclusionary equality benefits those who are already privileged while reinforcing the marginalization of Muslim women. Rosenblum's essay suggests that once entangled with the state, some forms of feminism can become the master's tool for exclusion rather than inclusion and wielded against subordinated groups of women in a manner that is inconsistent with feminisms general ideals of equality and liberty.

1. See generally, Leigh Goodmark, **Decriminalizing Domestic Violence: A Balanced Policy Approach to Intimate Partner Violence** (2018).

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