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"Burqinis, Burqas and Marilyn Manson: Freedom of Speech and Religious Expression in France and the United States"

Dr John Tate

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SUSTAINABLE DEVELOPMENT GOALS

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Burqinis, Burqas and Marilyn Manson: Freedom of Speech and Religious Expression in France and the United States

Justice Antonin Scalia of the U.S. Supreme Court once declared:

[O]ne model of the relationship between church and state…[was]….spread across Europe by the armies of Napoleon, and reflected in the Constitution of France, which begins 'France is [a]….secular….Republic'…..Religion is to be strictly excluded from the public forum. This is not, and never was, the model adopted by America." [*McCreary County v. ACLU* 545 U.S. 844 (2005), at 886, per Scalia J., dissenting].

With this statement Justice Scalia expresses a widespread view that the United States and France – two republics sharing eighteenth century revolutionary origins – give rise to very different outcomes concerning the place of religion in the public sphere. These outcomes are complicated in each polity by the competing tensions arising between the liberal and republican traditions manifest in each. This paper investigates these tensions, both within each political regime and between them. It does so by investigating key controversies concerning the presence of religious clothing in the public sphere, centered on the hijab, burqa and burqini. In engaging in this investigation the paper challenges the belief that the French and American polities always give rise to contrasting outcomes concerning the place of religion in the public sphere. The evidence it provides for this conclusion is an instance of deep parallel between the two, evident in what I have called the "American Headscarf Affair".

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